

Department of Legislative Services
Maryland General Assembly
2000 Session

FISCAL NOTE

House Bill 79 (Delegate Minnick)

Judiciary

Firearms - Mandatory Sentences

This bill repeals current law misdemeanor provisions relating to the unlawful use of a handgun or assault pistol in the commission of a felony or crime of violence, and the mandatory minimum penalties that attach to such offenses. The bill creates a new felony offense by which the use of a “firearm” in the commission of a felony subjects violators to mandatory sentences of 15 years imprisonment for a first offense; 25 years for a second offense; and life without parole for a third offense.

The bill also prohibits any part of such a sentence from being suspended and prohibits persons convicted under these provisions, except for those under the jurisdiction of the Patuxent Institution, from being eligible for parole. In addition, each sentence under these provisions are required to be served consecutively and not concurrently to any other sentence imposed for the underlying felony.

Fiscal Summary

State Effect: Potential significant increase in general fund expenditures due to the bill’s penalty provisions. Revenues would not be affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Applicable current law provisions allowing enhanced and mandatory minimum sentencing for use of a gun in the commission of a felony or crime of violence limit coverage to the use of handguns or antique firearms capable of being concealed or assault pistols or a magazine with a capacity of more than 20 rounds of ammunition.

State Expenditures: Although the Division of Correction (DOC) information system does not precisely identify all intakes as to whether a mandatory minimum sentence for gun use in the commission of a felony or crime of violence was handed down, it is estimated that DOC intakes in fiscal 1999 included between 270 and 570 intakes under such a mandatory sentence. This bill would provide for significantly longer mandatory sentences for that prison intake group, as well as capture an unknown but perhaps meaningful number of additional convictions subjected to enhanced penalties due to the nature of the bill's broader application.

Accordingly, general fund expenditures could increase significantly as a result of the bill's incarceration penalties due to people being committed to DOC facilities for longer periods of time. This bill could increase the average daily population in DOC facilities to the extent that additional beds, personnel, infrastructure improvements, or a new prison facility will be necessary. Based on a cost of approximately \$105,000 per bed, the cost of building a new medium security 1,300 bed prison facility is currently estimated at \$136.5 million.

Persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,700 per month. The average variable cost of housing a new inmate (food, medical costs, etc.), excluding overhead, is \$260 per month. For illustrative purposes, this bill would likely increase the average applicable sentence by a total of 15 years. Of that time sentenced, without the possibility of parole, such a person would actually serve approximately 10.5 years in addition to the sentence for the underlying felony due to mandatory release (from diminution credits earned) after 70% of sentencing. Assuming full inmate costs of \$1,700 per month, State costs could increase by \$214,200 for each person imprisoned under the bill.

Additional Information

Prior Introductions: Similar legislation was introduced in the 1997 session as HB 173; it was not reported out of the House Judiciary Committee. The bill would have made it a separate misdemeanor offense to use firearms, under an expanded definition, in the commission of a felony or crime of violence. The bill would have also established that a person convicted of a subsequent offense was not eligible for parole for five years.

Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services (Division of Correction), Department of Legislative Services

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