

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 374

(Senator Hoffman, *et al.*)

Judicial Proceedings

Crimes - Firearms - Child Access

This bill changes a provision concerning the storage of a loaded firearm to prohibit a person from storing or leaving the firearm in a location where the person knew or *reasonably* should have known that an unsupervised child *could* gain access to the firearm. The bill also increases the maximum penalties for that offense from a maximum fine of \$1,000 to a fine of \$5,000 and/or imprisonment for five years.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's increased penalty provisions.

Local Effect: Potential minimal increase in general fund revenues and expenditures due to the bill's increased penalty provisions.

Small Business Effect: None.

Analysis

Current Law: A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child *would* gain access to the firearm. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000.

A violation of this provision may not: (1) be considered evidence of negligence; (2) be considered evidence of contributory negligence; (3) limit liability of a party or an insurer; or (4) diminish recovery for damages arising out of the ownership, maintenance, or

operation of a firearm or ammunition. A party, witness, or lawyer may not refer to a violation of this provision during a trial of a civil action that involves property damage, personal injury, or death.

This prohibition does not apply if: (1) the child's access to a firearm is supervised by an individual at least 18 years old; (2) the child's access to a firearm was obtained as a result of an unlawful entry; (3) the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or (4) the child has a certificate of firearm and hunter safety.

State Revenues: General fund revenues could increase minimally as a result of the bill's increased monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this crime is expected to be minimal.

Generally, 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 \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2003 are estimated to range from \$10 to \$61 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's increased monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$20 to \$84 per inmate in fiscal 2003.

Additional Information

Prior Introductions: None.

Cross File: HB 969 (Delegate Montague, *et al.*) - Judiciary.

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

Fiscal Note History: First Reader - March 8, 2002
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