

Department of Legislative Services  
Maryland General Assembly  
2002 Session

FISCAL NOTE

House Bill 1367  
Judiciary

(Delegate Kelly, *et al.*)

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Criminal Convictions - Restoration of Civil Rights

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This bill restores the right to possess or receive certain firearms to individuals who have been convicted of a common law misdemeanor under State law and sentenced to serve a term of confinement of: (1) 30 days or fewer; or (2) more than 30 days and fewer than 6 months, if more than 10 years have passed since the expiration of the sentence, including any term of parole or probation.

The bill is effective July 1, 2002.

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Fiscal Summary

**State Effect:** Restoration of the civil rights of certain convicted individuals would not by itself, significantly affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** None.

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Analysis

**Current Law:** 18 U.S.C. § 921 (20) prohibits individuals who have been convicted in any court of a misdemeanor punishable by a term greater than two years from possessing or receiving firearms or ammunition. However, any conviction which has been expunged, pardoned, or for which an individual's civil rights have been restored, is not considered a conviction.

**Background:** Under Maryland law, there is no maximum penalty for common law crimes; the only cap on imprisonment is the constitutional prohibition on cruel and

unusual punishment. Therefore, under federal law, a conviction for a common law misdemeanor is considered a misdemeanor punishable by more than two years' imprisonment, which disqualifies an individual from purchasing or possessing a firearm. Under Maryland law, a person convicted of a common law offense is disqualified from purchasing or possessing a firearm only if the sentence actually imposed exceeds two years.

Before 1996, assault and battery were common law crimes in Maryland. Therefore, under Maryland law a person convicted of common law assault and battery could legally possess a regulated firearm if the person received a sentence of imprisonment of two years or less. Under federal law, however, a conviction for common law assault and battery disqualifies a person from purchasing or possessing a firearm because a term of imprisonment of more than two years was possible. In 1996, Chapter 632 enacted the current statutory crimes of first and second degree assault. Both of these offenses disqualify an individual from purchasing or possessing a regulated firearm under both State and federal law.

Some examples of current common law misdemeanors are resisting arrest, solicitation to commit a crime, attempts to commit crimes (unless an attempt crime has been codified, such as for murder, rape and sexual offense, and robbery), false imprisonment, hindering a law enforcement officer, and riot.

**State Fiscal Effect:** The bill is not expected to materially affect the number of firearms licenses issued by the Maryland State Police.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

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