

## HB 1368

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

## FISCAL NOTE

House Bill 1368 (Delegate Kelly, *et al.*)  
Judiciary

## **Crimes of Violence - Second Degree Assault**

This bill repeals second degree assault from the list of crimes of violence for purposes of handgun and regulated firearms regulations and crimes.

## Fiscal Summary

**State Effect:** This bill is not expected to have a significant impact on the operations or finances of the Judiciary or the Division of Correction.

**Local Effect:** None.

**Small Business Effect:** None. The bill's provisions are not expected to measurably impact State firearm sales.

## Analysis

**Current Law:** “Assault” means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings. Under the State’s prohibition against assault in the first degree, a person may not intentionally cause or attempt to cause serious physical injury to another. In addition, a person may not commit an assault with a firearm, including: (1) a handgun, antique firearm, rifle, shotgun, short-barreled shotgun, or short-barreled rifle; (2) an assault pistol; (3) a machine gun; and (4) a regulated firearm. A violator is guilty of a felony and subject to a maximum incarceration penalty of 25 years.

Under the State's prohibition against assault in the second degree, a person may not commit an assault. A violator is guilty of a misdemeanor and subject to maximum penalties of a fine of \$2,500 and/or imprisonment for ten years.

Under Maryland's criminal code provisions relating to regulated firearms, "crime of violence" means:

- abduction;
- arson in the first degree;
- assault in the first or second degree;
- burglary in the first, second, or third degree;
- carjacking and armed carjacking;
- escape in the first degree;
- kidnapping;
- voluntary manslaughter;
- maiming;
- mayhem;
- murder in the first or second degree;
- rape in the first or second degree;
- robbery;
- sexual offense in the first, second, or third degree;
- an attempt to commit any of the above offenses; or
- assault with intent to commit any of the aforesaid offenses or any offense punishable by imprisonment for more than one year.

A person with a second degree assault conviction (i.e., a crime of violence) who possesses a regulated firearm is subject to a mandatory two year imprisonment term.

A person is disqualified from purchasing or possessing a regulated firearm if convicted of an offense with a maximum term of imprisonment of more than two years. A disqualified person who violates the prohibition against the purchase or possession of a regulated firearm is subject to maximum penalties of a fine of \$10,000 and/or imprisonment for five years.

**Additional Comments:** The bill's provisions would not have any impact on a person's disqualification from purchasing or possessing a regulated firearm, because assault in the second degree is a statutory misdemeanor with a maximum term of imprisonment of more than two years.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 6, 2002  
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