

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

House Bill 1120
Judiciary

(Delegate Sophocleus)

Criminal Law - Use of Firearm in Commission of Crime

This bill expands a current law misdemeanor prohibition against the use of a handgun or concealable antique firearm in the commission of a crime of violence or felony to apply to any "firearm," without regard to its capability of being concealed. Under penalty provisions applicable to violators, the bill makes a convicted person's ineligibility for parole applicable to the entire term of sentence rather than for the mandatory minimum five-year portion of such a sentence. The bill's provisions are applied prospectively only and may not be applied to any person who uses a firearm in the commission of a felony or crime of violence before the bill's October 1, 2003 effective date.

Fiscal Summary

State Effect: Potential increase in general fund revenues and expenditures due to the bill's expanded prohibition.

Local Effect: Potential increase in revenues and expenditures due to the bill's expanded prohibition.

Small Business Effect: None.

Analysis

Current Law: A person may not use an antique firearm capable of being concealed on the person or any handgun in the commission of a crime of violence or any felony, whether the antique firearm or handgun is operable or inoperable at the time of the crime. A violator is guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, subject to a minimum nonparolable sentence of five years

and a maximum sentence of 20 years. For each subsequent violation, the sentence must be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony.

“Antique firearm” means: (1) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar ignition system, manufactured before 1899; or (2) a replica of such a firearm that is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition, or uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the U.S. and is not readily available in the ordinary channels of commercial trade. “Handgun” means a pistol, revolver, or other firearm capable of being concealed on the person. “Handgun” includes a short-barreled shotgun and a short-barreled rifle. “Handgun” does not include a shotgun, rifle, or antique firearm.

State Revenues: General fund revenues could increase as a result of the bill’s expanded prohibition from additional cases heard in the District Court.

State Expenditures: In fiscal 2002, the Division of Correction (DOC) had an intake of 465 persons with a handgun violation and, for 117 of those persons, the handgun violation was the most serious offense. The average time served for the 117 persons is expected to be 48 months. However, the extent to which this bill’s changes may increase firearm prosecutions and DOC’s annual intake is unknown for two reasons: (1) prosecutors have wide discretion to actually bring charges for specific statutory offenses; and (2) actual “Project Exile” prosecutions by the U.S. Attorney in federal court for gun cases arising in Baltimore City and Prince George’s County, sending convicted persons to federal prisons, may significantly reduce State and local costs associated with such offenses.

In any event, general fund expenditures could increase as a result of the bill’s expanded prohibition and its limitation on parole eligibility due to more people being committed to DOC facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal. Persons serving a sentence longer than 18 months 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. 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 2004 are estimated to range from \$14 to \$59 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 expanded prohibition from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase as a result of the bill's expanded prohibition. 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 \$28 to \$84 per inmate in fiscal 2004.

Additional Information

Prior Introductions: None.

Cross File: None.

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

Fiscal Note History: First Reader - March 11, 2003
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