

Department of Legislative Services  
Maryland General Assembly  
2004 Session

FISCAL AND POLICY NOTE

House Bill 305  
Judiciary

(Delegate Sophocleus, *et al.*)

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Criminal Law - Use of Firearm in Commission of Crime

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This bill makes it a misdemeanor to use any firearm, rather than any handgun or antique firearm capable of being concealed on the person, in the commission of a crime of violence or a felony, whether or not the firearm is operable at the time of the crime.

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Fiscal Summary

**State Effect:** Minimal increase in general fund expenditures due to the bill's expanded application of the crime of use of a firearm in the commission of a crime and its attendant mandatory minimum sentence. Revenues would not be affected.

**Local Effect:** None.

**Small Business Effect:** None.

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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, must be sentenced to imprisonment for not less than five years and not exceeding 20 years. Except for provisions governing release from the Patuxent Institution, the person is not eligible for parole in less than five years.

For the purposes of this bill, "crime of violence" means:

- abduction;
- first degree arson;
- first or second degree assault;
- first, second, or third degree burglary;
- carjacking and armed carjacking;
- first degree escape;
- kidnapping;
- voluntary manslaughter;
- maiming;
- mayhem;
- first or second degree murder;
- first or second degree rape;
- robbery;
- robbery with a dangerous weapon;
- first, second, or third degree sexual offense;
- an attempt to commit any of these crimes; or
- assault with intent to commit any of these crimes or a crime punishable by imprisonment for more than one year.

**State Expenditures:** General fund expenditures could increase minimally as a result of the bill's expanded application of the crime of use of a firearm in the commission of a crime due to more people being committed to Division of Correction (DOC) facilities for mandatory minimum sentences. The additional number of people sentenced under these provisions 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.

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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

**Fiscal Note History:** First Reader - March 11, 2004  
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