

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

Senate Bill 652 (Senator Giannetti)
Judicial Proceedings

Criminal Law - Weapon Used in Crime of Violence - Enhanced Penalties

This bill makes the crime of using an assault pistol, or a certain large capacity magazine, in the commission of a felony or crime of violence a felony rather than a misdemeanor. The bill also increases the maximum incarceration penalty for this offense from 20 to 30 years, whether it is a first or subsequent offense.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's increased penalty provisions applicable to an existing offense.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person who uses an assault pistol or a magazine with a capacity of more than 20 rounds of ammunition in the commission of a felony or a crime of violence is guilty of a misdemeanor and, in addition to any other sentence imposed for the felony or crime of violence, must be sentenced as follows:

- for a first violation, a maximum imprisonment term of 20 years, with a nonsuspendable, nonparolable mandatory minimum term of 5 years;

- for each subsequent violation, a maximum imprisonment term of 20 years, with a mandatory minimum term of 10 years, which must be consecutive to, and not concurrent with, any other sentence imposed for the felony or crime of violence.

Background: Changing crimes from misdemeanors to felonies generally means: (1) that such cases will be filed in the circuit courts rather than the District Court; and (2) some persons could eventually serve longer incarcerations due to enhanced penalty provisions, applicable to some offenses, for prior felony convictions. However, it is not known whether the prospect of a jury trial might spur more plea bargains and affect actual sentencing practices for these offenses.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's increased incarceration penalties due to people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people sentenced to longer incarceration terms as a result of this bill 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 \$310 per month. Excluding medical care, the average variable costs total \$120 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mp/jr

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