

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 579

(Senator Garagiola, *et al.*)

Judicial Proceedings

Judiciary

**Criminal Law - Robbery by Display of Written Instrument Claiming Possession
of Dangerous Weapon - Penalty**

This bill prohibits a person from committing or attempting to commit a robbery by displaying a written instrument claiming that the person has possession of a dangerous weapon. A violator is guilty of a felony and subject to a maximum incarceration penalty of 20 years.

The bill is effective June 1, 2005.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's incarceration penalty provision.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: A person may not commit or attempt to commit robbery. A violator is guilty of a felony and subject to a maximum imprisonment of 15 years. A person may not commit or attempt to commit robbery with a dangerous weapon. A violator is guilty of a felony and subject to a maximum imprisonment of 20 years.

Chapter 288 of 2000 revised provisions relating to robbery (then a common law crime) so as to retain the judicially determined meaning of robbery, but to also include a proof of

intent to deprive another of property, which is a required element of the crime of theft. The Act also provides that “obtaining the service of another,” which is also an element of theft, is included in the offense of robbery.

Under Title 4 of the Criminal Law Article (Weapon Crimes), a “weapon” includes a dirk knife, bowie knife, switchblade knife, star knife, sandclub, metal knuckles, razor, and nunchaku. “Weapon” does not include a handgun or a penknife without a switchblade.

Background: According to the FBI’s *Uniform Crime Reports*, robbery is a violent crime and requires force or threat of force and/or puts the victim in fear. According to the most recent *Uniform Crime Report* for Maryland, there were 13,302 robberies committed in the State in 2003 (see **Exhibit 1**). Firearms were used in 51% of those robberies, while robberies committed with no weapon accounted for 33% of the total. It is not known how many instances involved the use of a written instrument claiming possession of a dangerous weapon. In 2003, robbery accounted for 34% of the State’s violent crime and 5% of the aggregate crime index.

Exhibit 1
Maryland Robberies
2003

| <u>Classification</u> | <u>Number of Offenses</u> | <u>Percentage of Distribution</u> | <u>Total Value</u> |
|-----------------------|---------------------------|-----------------------------------|---------------------|
| Highway/Street | 6,442 | 48% | \$3,406,308 |
| Commercial House | 2,533 | 19% | 6,389,323 |
| Service Station | 325 | 2% | 344,243 |
| Convenience Store | 452 | 3% | 721,393 |
| Residence | 1,995 | 15% | 4,190,912 |
| Bank | 207 | 2% | 1,187,295 |
| Miscellaneous | 1,348 | 10% | 1,498,491 |
| Total | 13,302 | 100% | \$17,737,965 |

Source: CRIME IN MARYLAND, 2003 *Uniform Crime Report*, Maryland State Police

In fiscal 2004, the Division of Correction (DOC) had an intake of 274 persons convicted of robbery with a deadly weapon (with an average sentence of 118 months) and 17 persons convicted of attempted robbery with a deadly weapon (with an average sentence of 57 months). Also in fiscal 2004, the DOC intake was 256 persons for unarmed robbery (with an average sentence of 64 months) and 28 persons for attempted unarmed robbery (with an average sentence of 67 months). It is unknown how many of these

crimes included the use of a written instrument claiming the possession of a dangerous weapon.

State Expenditures: Because the bill would allow an additional number of prosecutions for robbery or attempted robbery to be treated the same as a violation whereby the robber actually had a dangerous weapon, a violator would be subject to a maximum 20-year sentence rather than a maximum 15-year sentence. Accordingly, general fund expenditures could increase minimally as a result of the applicable incarceration penalty due to people being committed to DOC facilities for longer periods of time. The number of people convicted of robbery or attempted robbery under the bill's circumstances 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.

The bill could add five years to the sentence of an indeterminate number of people convicted for unarmed robbery or attempted unarmed robbery. *For illustrative purposes*, assuming the average variable inmate costs, an additional five years served in a DOC facility costs about \$7,200 (60 months x \$120). Any such effect would not be felt for several years.

Additional Information

Prior Introductions: None.

Cross File: HB 806 (Delegates Petzold and Vallario) – Judiciary.

Information Source(s): Department of Legislative Services

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