

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1140
Judiciary

(Delegate Brown, *et al.*)

Criminal Law - Crime of Violence in or near School - Penalties

This bill allows a court to double the maximum incarceration term and fine for a person convicted of a crime of violence committed in a school vehicle or in, on, or within 1,000 feet of real property owned by or leased to an elementary or secondary school, or county board and used for elementary or secondary education. These provisions apply whether or not school is in session or the property is being used for other than school purposes at the time of the crime.

Fiscal Summary

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

Local Effect: Potential minimal increase in local revenues due to the bill's monetary penalty provisions.

Small Business Effect: None.

Analysis

Current Law: A 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 the above crimes; or
- assault with intent to commit any of the above crimes or a crime punishable by imprisonment for more than one year.

Violent crime does not include an offense under the Maryland Vehicle Law or under the State Boat Act unless the offense is punishable by imprisonment. Crimes of violence are felonies with maximum penalties for a first offense ranging from imprisonment for two years and/or a fine of \$500 (optional for manslaughter) to life without the possibility of parole. Not all of the offenses include a monetary penalty.

Upon conviction for a second time of a crime of violence committed on or after October 1, 1994, a person must be sentenced to a mandatory minimum term of at least 10 years, if the person: (1) has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994; and (2) served a term of confinement in a correctional facility for that conviction. A court may not suspend all or part of this mandatory 10-year sentence.

If the State intends to proceed against a person as a subsequent offender under these provisions, it must comply with the procedures set forth in the Maryland Rules for the indictment and trial of a subsequent offender.

A person sentenced under these provisions may petition to be granted parole if the person is at least 65 years old and has served at least 15 years of the sentence imposed under these provisions. These provisions do not apply if a person is sentenced to death.

Upon conviction for a third time of a crime of violence, a person must be sentenced to imprisonment for the term allowed by law but not less than 25 years, if the person: (1) has been convicted of a crime of violence on two prior separate occasions in which the

second or succeeding crime is committed after there has been a charging document filed for the preceding occasion, and for which the convictions do not arise from a single incident; and (2) has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence. Upon conviction for a fourth time of a crime of violence, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence must be sentenced to life imprisonment without the possibility of parole.

A court may not suspend all or part of the mandatory 25-year sentence required under these provisions. A person sentenced under these provisions is not eligible for parole except in accordance with the provisions applicable to persons at the Patuxent Institution.

For purposes of parole eligibility, a violent crime means all of the cited crimes of violence as well as first, second, or third degree burglary. A person sentenced to a term of incarceration of six months or more is entitled to a parole hearing after having served one-fourth of the term or consecutive terms. A person sentenced to more than one term, including a term during which the person is eligible for parole and a term during which the person is not eligible for parole, cannot be considered for parole unless the person has served the greater of one-fourth of the aggregate term or a period equal to the term during which the inmate is not eligible for parole.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalties due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people receiving double incarceration convictions under the 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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 per month.

Local Revenues: Because trials for violent crimes are heard in the circuit courts, revenues could increase minimally as a result of the bill's monetary penalty provisions.

Additional Information

Prior Introductions: None.

Cross File: SB 647 (Senator Lawlah, *et al.*) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Department of Legislative Services

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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510