

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 343
Judiciary

(Delegate Quinter, *et al.*)

Armed Criminal Lockup Act

This bill prohibits a person convicted of a crime of violence from possessing a firearm while on conditional release from confinement for the conviction. The bill requires a court or the Maryland Parole Commission to immediately revoke the conditional release of the person upon a finding of a violation, and the person is prohibited from being subsequently released on conditional release.

The bill also prohibits a child adjudicated delinquent for delinquent acts that would be a crime of violence if committed by an adult from possessing a firearm while on conditional release from detention. The bill requires a court to immediately revoke the conditional release of the child upon a finding of a violation, and the child is prohibited from being subsequently released on conditional release.

The bill's provisions do not prohibit any prosecution or penalty being imposed for a crime committed by a person while on conditional release.

Fiscal Summary

State Effect: Potential minimal additional incarceration costs for the Division of Correction (DOC) and detention costs for the Department of Juvenile Services (DJS). Revenues would not be affected.

Local Effect: Potential minimal additional incarceration costs for local detention facilities. Revenues would not be affected.

Small Business Effect: None.

Analysis

Bill Summary: “Conditional release” means any release from, or alternative to, an imprisonment sentence or other form of confinement. It includes any form of suspended sentence, probation before or after judgment, home detention, electronic monitoring, work release, parole, mandatory supervision release, or release via certain correctional options programs. It also includes, in the case of a child adjudicated delinquent, a release from detention.

Firearm means: (1) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or (2) the frame or receiver of such a weapon. The term includes a starter gun.

Crime of violence means:

- abduction;
- arson in the first degree;
- kidnapping;
- manslaughter, except involuntary manslaughter;
- mayhem;
- maiming;
- murder;
- rape;
- robbery;
- carjacking;
- armed carjacking;
- first or second degree sexual offense;
- use of a handgun in the commission of a felony or other crime of violence;
- an attempt to commit any of the above crimes;
- first degree assault;
- assault with intent to murder, rape, or rob; and
- assault with intent to commit a first degree or second degree sexual offense.

Current Law: As a standard condition of probation, a probationer generally must get permission from the probation supervisor before owning, possessing, using, or having under his or her control any dangerous weapon or firearm of any description.

A person may not possess a regulated firearm if the person has been convicted of a disqualifying crime, which includes a crime of violence. If a person is convicted of a felony in federal court or convicted in any State court of a crime carrying a maximum sentence of more than two years, that person is prohibited by law from possessing a firearm. The Division of Parole and Probation lacks authority to grant a probationer permission to possess a firearm under these circumstances. DOC had an intake of 524 persons for handgun violations in fiscal 2005.

State Expenditures: General fund expenditures could increase minimally as a result of additional revocations of conditional release under the bill's provisions due to more people being committed to DOC facilities and increased payments to counties for reimbursement of inmate costs. The number of people remanded to incarceration under 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 \$1,974 per month (\$23,700 annually). 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.

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 2007 are estimated to range from \$17 to \$65 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.

DJS pays the expenditures for juvenile detention. According to DJS, the current average annual cost for a juvenile in detention is approximately \$108,904. Any increase in the average daily population of detention centers from this bill would not materially affect expenditures. The current average cost of a committed out-of-home per-diem placement is approximately \$60,000 per year, but this can vary greatly depending on the type of placement and the facility. According to DJS, during calendar 2005, there were 85 juveniles arrested for handgun violations.

Assuming that any additional hearings in the District Court resulting from this bill would be minimal in number, the costs associated with those hearings could be handled with

existing budgeted resources. Any increased workload for the Parole Commission, including amending internal hearing procedures, would be handled with existing budgeted resources.

Local Expenditures: Expenditures could increase minimally as a result of the bill's provisions. 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 \$33 to \$119 per inmate in fiscal 2007.

Assuming that any additional hearings in the circuit courts resulting from this bill would be minimal in number, the costs associated with those hearings could be handled with existing budgeted resources.

Additional Information

Prior Introductions: HB 662 of 2005, an identical bill had a hearing before the House Judiciary Committee and was withdrawn. HB 983 of 2004 and HB 843 of 2003 each received a hearing before the House Judiciary Committee and had no further action taken on them.

Cross File: None.

Information Source(s): Department of Juvenile Services, Judiciary (Administrative Office of the Courts), Office of the Public Defender, 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