

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 24 (Senator Garagiola)
Judicial Proceedings

Criminal Law - Use of Firearm in Commission of Crime

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.

The bill specifies that the term “firearm” includes an antique firearm, rifle, shotgun, short-barreled rifle, short-barreled shotgun, an assault pistol, a machine gun, and a regulated firearm, which is a handgun or any of 45 specified assault weapons or their copies.

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.

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 5

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.

“Firearm” means a handgun, rifle, shotgun, short-barreled rifle, or short-barreled shotgun. It does not include an antique firearm.

“Antique firearm” means: (1) a firearm, including a firearm with a matchlock, flintlock, percussion cap, or similar ignition system, manufactured before 1899; or (2) a replica of such a firearm that is not designed or redesigned to use rimfire or conventional centerfire fixed ammunition, or uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

“Handgun” means a pistol, revolver, or other firearm capable of being concealed on the person. Handgun includes a short-barreled shotgun and a short-barreled rifle. Handgun does not include a shotgun, rifle, or antique firearm.

A “regulated firearm” means any handgun or any of 45 statutorily specified assault weapons or their copies. An “assault pistol” means any of 15 statutorily identified firearms or their copies. “Machine gun” means a loaded or unloaded weapon that is capable of automatically discharging more than one shot or bullet from a magazine by a single function of the firing device.

State Expenditures: In fiscal 2005, the Division of Correction (DOC) had an intake of 524 persons with a handgun violation and, for 152 of those persons, the handgun violation was the most serious offense. The average time served for the 152 persons is expected to be 53 months. However, the extent to which this bill’s changes may increase firearm prosecutions and DOC’s annual intake is unknown for two reasons: (1) prosecutors have wide discretion to actually bring charges for specific statutory offenses; and (2) actual prosecutions by the U.S. Attorney in federal court for gun cases arising in Baltimore City and Prince George’s County, sending convicted persons to federal prisons, may significantly reduce State and local costs associated with such offenses.

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 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 \$1,974 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.

Additional Information

Prior Introductions: HB 38 of 2005 and HB 305 of 2004, similar bills, each had a hearing before the House Judiciary Committee and had no further action taken on them.

Cross File: None.

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

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nas/jr

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