

Department of Legislative Services  
 Maryland General Assembly  
 2007 Session

FISCAL AND POLICY NOTE

House Bill 583  
 Judiciary

(Delegate McDonough, *et al.*)

Crimes - Second Gun Offense - Prohibition on Pretrial Release

This bill prohibits a District Court commissioner from authorizing the pretrial release of a defendant charged with a specified crime involving the unlawful use or possession of a firearm if the defendant has been previously convicted of such a crime.

Fiscal Summary

**State Effect:** General fund expenditures would increase by \$499,400 in FY 2008 for 12 additional correctional officers. Out-year costs reflect annualization and inflation. Although the bill would increase the workload of District Court commissioners, it is not expected to have a significant fiscal or operational impact on the District Court.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	499,400	672,400	706,700	743,100	781,700
Net Effect	(\$499,400)	(\$672,400)	(\$706,700)	(\$743,100)	(\$781,700)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential significant expenditure increases, including additional correctional officers, in some jurisdictions.

**Small Business Effect:** None.

Analysis

**Current Law:** Title 4 of the Criminal Law Article contains provisions relating to the use or possession of a firearm, including prohibitions pertaining to wearing, carrying, or

transporting a handgun; the use of a handgun or antique firearm in the commission of a crime; possession of a firearm at a public demonstration; assault pistols; and machine guns.

Title 5 of the Criminal Law Article delineates prohibitions relating to controlled dangerous substances, prescriptions, and other substances. Title 5 specifically prohibits a person, during or in relation to a drug trafficking crime, from: (1) possessing a firearm under sufficient circumstances to constitute a nexus to the trafficking crime; or (2) using, wearing, carrying, or transporting a firearm. In addition to the sentence provided for the trafficking crime, a violator is guilty of a felony and subject to the following penalties: (1) for a first offense, imprisonment for a mandatory minimum of 5 years and a maximum of 20 years; and (2) for each subsequent violation, imprisonment for a mandatory minimum of 10 years and a maximum of 20 years. The mandatory minimum portions of each sentence is nonsuspendable and nonparolable. The mandatory minimum sentence may be doubled if the firearm was an assault pistol, a regulated firearm, a machine gun, or equipped with a silencer.

Also under controlled dangerous substances provisions, a person may not possess, own, carry, or transport a firearm if that person has been convicted of:

- a felony under this title;
- a crime under the laws of another state or of the U.S. that would be a felony under this title if committed in Maryland;
- conspiracy to commit such a crime; or
- an attempt to commit such a crime.

A violator is guilty of a felony and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000.

Title 5 of the Public Safety Article generally and specifically regulates firearms and handguns in the State.

**State Expenditures:** The Division of Pretrial Detention and Services (DPDS) is responsible for processing and managing the care, custody, and control of Baltimore City arrestees and inmates, primarily at the Baltimore City Detention Center. DPDS also provides bail recommendations to the courts in Baltimore City and supervises defendants who have been released to the community to await trial.

According to DPDS this bill could increase the average daily population committed to the supervision of DPDS by 100 people. Accordingly, general fund expenditures could

increase by an estimated \$512,265 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date. This estimate reflects the cost of hiring 12 additional correctional officers. It includes salaries, fringe benefits, one-time start-up costs, and the purchase of new equipment.

Salaries and Fringe Benefits	\$453,004
Equipment and Supplies	22,810
Contingency Housing	22,585
Operating Expenses	<u>956</u>
<b>Total FY 2008 State Expenditures</b>	<b>\$499,355</b>

Future year expenditures reflect: (1) full salaries with 4.5% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

DPDS housing is already operating at full capacity. The agency advises that a daily increase of 25 persons would create "severe crowding."

**Local Expenditures:** This bill would likely increase the number and length of pretrial incarcerations at some local detention facilities in a similar fashion. Per diem operating costs of local detention facilities are expected to range from \$42 to \$120 per inmate in fiscal 2008.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 7, 2007  
ncs/jr

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