

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 87

(Delegate Anderson)(By Request - Baltimore City
Administration)

Judiciary

Judicial Proceedings

**Crimes - Violation of Restriction Against Possession of Regulated Firearm -
Penalties**

This bill increases the maximum incarceration penalty for a second or subsequent offense of possession of a regulated firearm by a person previously convicted of a crime of violence or drug felony from five to eight years. If the State intends to seek a sentence of imprisonment for more than five years, the State must notify the person in writing of the State's intention at least 30 days before trial.

Fiscal Summary

State Effect: No impact on general fund expenditures for Division of Correction (DOC) facilities in the near-term. Any potential increases in imprisonment terms at DOC facilities resulting from the bill are not expected to significantly affect State incarceration costs and does not begin to be felt until FY 2015.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Title 5 of the Public Safety Article regulates firearms and handguns in the State. A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified in that article. Among other restrictions, a person may not possess a regulated firearm in the State if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. A violator is guilty of a

felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Under a separate prohibition relating to knowing participation of a violation of this title, a violator is subject to maximum penalties of five years imprisonment and/or a fine of \$10,000. Each violation of this prohibition is also a separate offense.

Background: The two separate statutory sentencing provisions applicable to Title 5 of the Public Safety Article (as cited above) have caused the courts to interpret the sentencing provision for the offense affected by the bill as mandating a five-year sentence, no more and no less. A review of the Maryland Sentencing Guidelines database indicates that there were 140 convictions in Maryland circuit courts for illegal possession of a firearm after a conviction for crime of violence or drug felony in fiscal 2008.

State Expenditures: General fund expenditures may increase minimally as a result of the bill's increase of maximum incarceration penalties applicable to violations of restrictions against possession of a regulated firearm due to people being committed to DOC facilities for longer periods of time. The number of people affected by the bill's 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 \$2,600 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 variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 per month.

Additional Information

Prior Introductions: HB 964 of 2008 was reported out of the House Judiciary Committee, recommitted to that committee, and had no further action taken on it. Its cross file, SB 558, received a hearing before the Senate Judicial Proceedings Committee and had no further action taken on it.

Cross File: SB 182 (Senator McFadden)(By Request – Baltimore City Administration) – Judicial Proceedings.

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

Fiscal Note History: First Reader - February 6, 2009
mlm/hlb Revised - House Third Reader - March 31, 2009

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