

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Revised

Senate Bill 274

(Senator McFadden)(By Request - Baltimore City
Administration)

Judicial Proceedings

Judiciary

Criminal Law - Restrictions Against Possession of Firearms - Penalties

This bill establishes a statutory maximum penalty of 15 years for possession of a regulated firearm by a person convicted of certain crimes of violence or drug-related crimes. The bill also prohibits the possession of a rifle or a shotgun if a person was previously convicted of those crimes. A violator is guilty of a felony and subject to a mandatory minimum, nonsuspendable, nonparolable sentence of 5 years and a maximum sentence of 15 years. Each violation must be considered a separate offense.

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.

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 in 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.

The term “rifle” means a weapon that is: (1) designed or redesigned, made or remade, and intended to be fired from the shoulder; and (2) designed or redesigned, and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

The term “shotgun” means a weapon that is: (1) designed or redesigned, made or remade, and intended to be fired from the shoulder; and (2) designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore one or more projectiles for each pull of the trigger.

Background: The two separate statutory sentencing provisions applicable to Title 5 of the Public Safety Article (as cited above) have been interpreted by the courts as mandating a five-year sentence, no more and no less. A review of the Maryland Sentencing Guidelines database indicates that there were 108 convictions in Maryland circuit courts for illegal possession of a firearm after a conviction for crime of violence or drug felony in fiscal 2009.

This bill brings State law closer to federal law, under 18 U.S.C. Section 922, which prohibits the possession of any firearm or ammunition by a person convicted in any court, of a crime punishable by imprisonment for a term exceeding one year.

State Expenditures: General fund expenditures may increase minimally as a result of the bill’s expanded application of an existing prohibition which results in an increase of maximum incarceration penalties applicable to violations; and potential violations from the new prohibition established by the bill. 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 \$2,750 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 \$371 per month. Excluding all medical care, the average variable costs total \$182 per month.

Additional Information

Prior Introductions: None.

Cross File: HB 358 (Delegate Anderson, *et al.*) (By Request - Baltimore City Administration) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), State's Attorneys' Association, State Commission on Criminal Sentencing Policy, Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2010
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