

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

House Bill 358

(Delegate Anderson, *et al.*) (By Request - Baltimore City Administration)

Judiciary

---

**Criminal Law - Violation of Restriction Against Possession of Firearms - Penalties**

---

This bill expands the prohibition against the possession of regulated firearms by a person convicted of a certain crime of violence or drug-related crime to apply to all firearms. The bill also creates a statutory maximum penalty of 15 years for this 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.

**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.

**State Expenditures:** General fund expenditures may increase minimally as a result of the bill's expanded application of an existing prohibition and an increase of maximum incarceration penalties applicable to violations 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 \$2,750 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 Comments:** The Administrative Office of the Courts believes that this bill may simplify judicial proceedings by preventing litigation over which weapons fall within the statute.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 274 (Senator McFadden)(By Request - Baltimore City Administration) - Judicial Proceedings.

**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  
ncs/hlb

---

Analysis by: Guy G. Cherry

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510