

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 1104
Judiciary

(Delegate Wilson, *et al.*)

Criminal Law - Use of Firearm in Commission of Crime of Violence - Felony

This bill reclassifies the use of a firearm during the commission of a felony or a crime of violence from a misdemeanor to a felony. The bill retains the current statutory penalty of imprisonment for at least 5 years but no more than 20 years.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A person may not use a firearm in the commission of a crime of violence or any felony, whether the firearm is operable or inoperable at the time of the crime. Violators are guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, are subject to imprisonment for up to 20 years with a mandatory minimum sentence of 5 years, which is generally nonparolable. Sentences for subsequent violations must be served consecutively with any other sentence imposed for the crime of violence or felony.

“Crime of violence” means (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary

manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) an attempt to commit any of these crimes; or (17) assault with the intent to commit any of these crimes or a crime punishable by imprisonment for more than one year.

“Firearm” means (1) a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or (2) the frame or receiver of such a weapon. “Firearm” includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

Local Expenditures: The bill is not anticipated to result in an increase in circuit court caseloads although the bill creates a new felony. The firearm offense is predicated on the commission of a felony so these defendants are already eligible for circuit court jurisdiction.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - February 17, 2012
mm/kdm

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