

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 856  
Judiciary

(Delegate Conaway)

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**Criminal Law - Use of Dangerous Weapons During Crime**

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This bill prohibits a person from using a “dangerous weapon” in the commission of a crime. Under the bill, a “dangerous weapon” is (1) an instrument capable of inflicting death or serious bodily injury; (2) an object that is not an instrument capable of inflicting serious bodily injury, but closely resembles such an instrument or is used by the defendant in a manner that creates the impression that the object is such an instrument.

Violators are guilty of a misdemeanor and subject to a mandatory minimum sentence of one year, which is nonsuspendable and nonparolable. The bill does not specify a maximum sentence. A sentence for a first offense may be separate from and consecutive to or concurrent with a sentence imposed for a crime based on the act establishing the violation. A sentence for a subsequent offense must be served consecutively to a sentence imposed for a crime based on the act establishing the violation.

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**Fiscal Summary**

**State Effect:** Potential minimal decrease in general fund revenues from fines imposed in District Court cases. Minimal increase in general fund expenditures if individuals in Baltimore City or Division of Correction (DOC) facilities serve lengthier sentences under the bill than they would under current law.

**Local Effect:** Potential minimal decrease in local revenues from fines imposed in circuit court cases. Minimal increase in local expenditures if individuals in local detention facilities serve lengthier sentences under the bill than they would under current law.

**Small Business Effect:** None.

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## Analysis

**Bill Summary:** The bill lists various instruments that are considered to be dangerous weapons, including:

- a knife with a blade three inches or more in length, or a snap-blade or spring-blade knife, regardless of the length of the blade;
- an ice pick or similar sharp stabbing tool;
- a straight edge razor or a razor blade fitted to a handle;
- a cutting, stabbing, or bludgeoning weapon or device capable of inflicting serious bodily injury; and
- a dirk, dagger, or bludgeon.

**Current Law:** A person may not wear, carry, or transport a dangerous “weapon” either in a concealed manner or openly with the intent or purpose of injuring an individual in a dangerous manner unless the person qualifies under an express exemption or has been issued a permit to carry a handgun. Exemptions include on-duty law enforcement personnel, or an individual who carries the weapon as a reasonable precaution against apprehended danger, the reasonableness of which is subject to a determination by a court in any case arising out of the matter. “Weapon” does not include a handgun or penknife without a switchblade, but does include other specified items, like a razor, a nunchaku, a dirk knife, bowie knife, switchblade knife, star knife, sandclub, and metal knuckles.

Violators are guilty of a misdemeanor, punishable by maximum penalties of three years imprisonment and/or a \$1,000 fine. If the evidence shows that the weapon was carried with the deliberate purpose of injuring or killing another, the court must impose the highest sentence of imprisonment permitted.

**State Revenues:** General fund revenues decrease minimally to the extent that defendants are convicted of the offense created under the bill (which does not contain a monetary penalty) instead of similar offenses under current law (which do contain monetary penalties).

**State Expenditures:** General fund expenditures increase minimally as a result of the bill’s incarceration penalty due to people being committed to DOC facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime 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 \$2,900 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 about \$385 per month. Excluding all medical care, the average variable costs total \$170 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues decrease minimally to the extent that defendants are convicted of the offense created under the bill (which does not contain a monetary penalty) instead of similar offenses under current law (which do contain monetary penalties).

**Local Expenditures:** Expenditures increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the Division of Correction but are confined in a local facility. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Harford and Montgomery counties, Judiciary (Administrative Office of the Courts), Department of State Police, State's Attorneys' Association, Department of Legislative Services

**Fiscal Note History:** First Reader - February 17, 2012  
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