

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 131
Judiciary

(Delegate Lafferty)

Criminal Law - Access to Firearms - Penalties

This bill expands an existing prohibition and an existing misdemeanor penalty related to a child's access to firearms. Specifically, under the bill, a person may not store or leave a loaded *or unloaded* firearm in a location where the person knew or should have known that an unsupervised child or *a person who is prohibited by law from purchasing or possessing a firearm* could gain access to the firearm. A violator is guilty of a misdemeanor and subject to seizure of the firearm and imprisonment for up to two years and/or a fine of up to \$1,000; under current law, the misdemeanor penalty applicable to the existing prohibition is a fine up to \$1,000.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's expanded prohibition and penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's expanded prohibition and penalty provisions.

Small Business Effect: None.

Analysis

Current Law: A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child would gain access to the firearm. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000.

The prohibition does not apply if:

- the child's access to a firearm is supervised by an individual at least 18 years old;
- the child's access to a firearm was obtained as a result of an unlawful entry;
- the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or
- the child has a certificate of firearm and hunter safety issued under applicable provisions of the Natural Resources Article.

A violation may not (1) be considered evidence of negligence; (2) be considered evidence of contributory negligence; (3) limit liability of a party or an insurer; or (4) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition. A party, witness, or lawyer may not refer to a violation during a trial of a civil action that involves property damage, personal injury, or death.

State Revenues: Because the bill expands a current law prohibition general fund revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this expanded crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional 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 State inmate (including variable medical care and variable operating costs) is about \$370 per month. Excluding all medical care, the average variable costs total \$180 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 a State correctional facility. 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 State 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 State correctional facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Because the bill expands a current law prohibition, revenues increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

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 State 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.

Additional Information

Prior Introductions: None.

Cross File: SB 531 (Senator Ferguson) - Judicial Proceedings.

Information Source(s): Baltimore, Carroll, Cecil, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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mm/lgc

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