

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1464
Judiciary

(Delegate DeBoy)

Criminal Law - Deadly Weapons on the Property of an Institution of Higher Education

This bill prohibits a person from carrying or possessing a firearm, knife, or deadly weapon of any kind on the property of an institution of higher education, with specified exceptions. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000. A person convicted of carrying or possessing a handgun in violation of this prohibition is subject to current law penalties for illegally wearing, carrying, or transporting a handgun.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Bill Summary: The bill does not apply to:

- a law enforcement officer in the regular course of the officer's duty;
- a person hired by the institution specifically for the purpose of guarding the property;

- a person conducting business or attending a class, workshop, seminar, or other event at the institution if the person is an off-duty law enforcement officer or a retired law enforcement officer who holds a handgun permit issued in Maryland and is certified to carry a concealed firearm under the federal Law Enforcement Officers Safety Act and conceals the weapon in a manner to prevent it from being seen;
- a person engaged in organized shooting activity for educational purposes;
- a member of the institution's pistol or rifle team, skeet club, or ROTC who has the written consent of the president or security director of the institution to use the weapon in the course of the member's team or club activities;
- a person who has the written consent of the president or security director to display or engage in a historical demonstration using a weapon or a replica of a weapon for educational purposes; or
- an armored car guard engaged in the regular course of the guard's duty.

Current Law: A person is prohibited from carrying or possessing a firearm, knife, or deadly weapon of any kind on any public school property. A person who violates this prohibition using any weapon other than a handgun is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years, a fine of \$1,000, or both. Maryland law does not specifically address such issues with respect to an institution of higher education.

The misdemeanor penalties for a violator using a handgun are as follows: (1) for a first offense, a fine of not less than \$250 and not more than \$2,500 and/or a sentence of not less than 90 days or more than 3 years; (2) for a second offense, a mandatory minimum sentence of 3 years and a maximum sentence of 10 years; and (3) for a third or subsequent offense, a mandatory minimum sentence of 5 years and a maximum sentence of 10 years.

The prohibition against carrying a deadly weapon on public school property does not apply to:

- a law enforcement officer in the regular course of the officer's duty;
- a person hired by a county board of education specifically for the purpose of guarding public school property;
- a person engaged in organized shooting activity for educational purposes; or
- a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or replica of a weapon for educational purposes.

A person is prohibited from wearing, carrying, or transporting a handgun in Maryland without a permit issued by the Secretary of State Police. There are a number of specified exceptions to this prohibition, including the wearing, carrying, or transporting of a handgun by a person who is on active assignment engaged in law enforcement, is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person's official equipment, and is:

- a law enforcement official of the United States, the State, or a county or city of the State;
- a member of the U.S. Armed Forces or of the National Guard on duty or traveling to or from duty;
- a law enforcement official of another state or subdivision of another state temporarily in this State on official business;
- a correctional officer or warden of a correctional facility in the State;
- a sheriff or full-time assistant or deputy sheriff of the State; or
- a temporary or part-time sheriff's deputy.

Other exceptions to the prohibition on wearing, carrying, or transporting of a handgun in Maryland without a permit include:

- the carrying of a handgun on the person or in a vehicle while the person is transporting it to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- the wearing, carrying, or transporting by a person of a handgun if used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources-sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster;

- the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases;
- the wearing, carrying, or transporting of a handgun by a supervisory employee in the course of employment, within the confines of the business establishment in which the supervisory employee is employed, and when so authorized by the owner or manager of the business establishment;
- the carrying or transporting of a signal pistol or other visual distress signal approved by the U.S. Coast Guard in a vessel on Maryland's waterways or, if the signal device is unloaded and carried in an enclosed case, in a vehicle; or
- the wearing, carrying, or transporting of a handgun by a person carrying a court order requiring the surrender of the handgun, if the handgun is unloaded; the person has notified the law enforcement unit, barracks, or station that the handgun is being transported in accordance with the court order; and the person transports the handgun directly to the law enforcement unit, barracks, or station.

Violators are guilty of a misdemeanor and subject to penalties ranging from 30 days to 10 years imprisonment, depending on the nature of the offense and whether there have been any prior violations by the offender. Most of the violations are subject to mandatory minimum sentencing.

Background: According to the National Conference of State Legislatures (NCSL), most colleges do not allow students to carry concealed weapons on campus. However, there are the following known exceptions:

- In March 2012, the Colorado Supreme Court ruled that the University of Colorado's longstanding policy banning guns from campus violates the state's concealed carry law. The court held that the state's Concealed Carry Act does not allow the Board of Regents to regulate the possession of concealed handguns on campuses. The original challenge was filed in 2010 by three university students and an organization called Students for Concealed Carry, which opposed the ban. A District Court originally dismissed the case, but an appeals court overturned the campus' weapon ban, prompting the University of Colorado Board of Regents to appeal the decision to the Colorado Supreme Court.
- Prior to 2010, Colorado State University (CSU) was one of a handful of colleges that allowed concealed carry weapons on campus. In early 2010, CSU enacted a campus gun ban. In April 2010, the Colorado Court of Appeals overturned the University of Colorado's gun ban, leading CSU to closely examine its own firearm regulation. As a result, in May 2010, the CSU gun ban was rescinded and

concealed carry weapons were again allowed on the CSU campus with the proper permit. Since that decision, 18 community colleges in Colorado have voluntarily removed their own gun prohibitions.

- In September 2011, the Oregon Court of Appeals overturned the longstanding Oregon University System's ban of guns on campuses, allowing those with permits to carry concealed guns on Oregon campuses. The lawsuit was the result of a student who was suspended in 2009 for carrying a handgun with a permit on Western Oregon University's campus. The university system was found by the court to have overstepped its authority by issuing the ban, because state law specifies that only the state legislature can regulate the use, sale, and possession of firearms. The university system did not appeal, but asserts that it does have the authority to keep internal policies banning guns from specific areas on campus. In March 2012, the Oregon State Board of Higher Education unanimously approved a policy banning guns from classrooms, buildings, dormitories, and events.
- In 2009, the Michigan State University (MSU) Board of Trustees voted to alter its policy concerning concealed weapons on campus. Previously, guns were completely banned from the MSU campus, but the trustees voted to allow guns to be carried through campus, as long as the guns remained out of campus buildings. The Board of Trustees made the decision so that MSU campus policies were better aligned with state law.
- Since 1995, students have been allowed to carry concealed weapons on the Blue Ridge Community College campus in Virginia. Valid state permits are required, and all restrictions of Virginia's concealed carry law apply.

NCSL also reports that, other than Maryland:

- at least 11 states have introduced 15 bills to allow guns on college campuses (Colorado, Georgia, Indiana, Kansas, Montana, Nevada, Oregon, South Carolina, South Dakota, Texas, and Wyoming);
- at least 8 states have introduced 10 bills to allow faculty or administrators (or other specific group) to carry guns on college campuses (Arkansas, Arizona, Kansas, Missouri, New Jersey, New York, Rhode Island, and Tennessee);
- at least three states have introduced five bills to prohibit guns on college campuses (Arizona, Colorado, and Kentucky); and
- Illinois has introduced two bills to leave the decision to ban or allow guns up to the college or university.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalties 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 proposed 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: Revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase minimally as a result of the bill's incarceration penalties. 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 932 (Senator Robey) - Judicial Proceedings.

Information Source(s): University System of Maryland, Morgan State University, Baltimore City Community College, Maryland Higher Education Commission, Maryland State Commission on Criminal Sentencing Policy, Department of Public Safety and Correctional Services, Judiciary (Administrative Office of the Courts), Office of the Public Defender, National Conference of State Legislatures, Department of Legislative Services

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