

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

Senate Bill 943

(Senator Raskin, *et al.*)

Judicial Proceedings

Judiciary

Criminal Procedure - Firearms - Transfer

This bill requires a court to inform a person convicted of a “disqualifying crime” that is a “domestically related crime” that the person is prohibited from possessing regulated firearms, rifles, and shotguns. A court must inform a person convicted of a felony that the person is prohibited from possessing regulated firearms. In addition, the court must advise the person that proof must be provided to the Department of Public Safety and Correctional Services (DPSCS) that all firearms in the person’s possession that violate the bill’s prohibitions have been transferred from the person’s possession. The bill establishes procedures and requirements related to transfers and the disposal of transferred firearms. In addition, the bill establishes specified exceptions to the prohibitions against possession of a regulated firearm by a person who is otherwise prohibited from possession of a regulated firearm because the person has been convicted of a disqualifying crime.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: General fund expenditures increase by \$107,400 in FY 2017 for DPSCS to develop procedures for and implement the collection of the required filings. Future year costs reflect annualization and inflation. The bill is not expected to have a significant impact on the Department of State Police (DSP) or other State law enforcement agencies.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	107,400	132,700	138,100	143,700	149,500
Net Effect	(\$107,400)	(\$132,700)	(\$138,100)	(\$143,700)	(\$149,500)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Minimal. It is assumed that the bill's requirements can be handled with the existing resources of the circuit courts and local law enforcement agencies.

Small Business Effect: Potential meaningful. Firearms dealers in the State must develop procedures and mechanisms for accepting transferred firearms.

Analysis

Bill Summary: A person prohibited from possessing a firearm must transfer the firearm within two business days after the conviction or entry of probation before judgment to a State or local law enforcement official or to a federally licensed firearms dealer. For a shotgun or rifle, such a transfer must be made within two business days after the conviction to a State or local law enforcement official, a federally licensed firearms dealer, or another person who is not prohibited from possessing the firearm under State and federal law and does not live in the same residence. A person prohibited from possessing a firearm may designate a representative to transfer a firearm to a State or local law enforcement official or to a federally licensed firearms dealer.

A law enforcement official or firearms dealer accepting a transferred firearm must issue a written notice of completed transaction or other proof of transfer to the person transferring the firearm. A written notice of completed transaction or proof of transfer must include (1) the name of the person transferring the firearm; (2) the date the firearm was transferred; and (3) the serial number, make, and model of the firearm. For a firearm manufactured before 1968, identifying marks may be substituted for the serial number.

Within five business days of being advised of the requirement to transfer possession of a firearm, a person must:

- file a copy of a written notice of completed transaction or proof of transfer with DPSCS and attest that all firearms in the person's possession have been transferred and that the person does not possess any other firearms; or
- attest to DPSCS that the person does not possess a firearm and did not possess a firearm at the time of the order.

DPSCS must develop procedures for the collection of the required filings.

If a person transfers a firearm to a law enforcement agency pursuant to the bill, the agency may dispose of the firearm.

The bill establishes an exception to the prohibition against wearing, carrying, or transporting a handgun by a person who has been convicted of a felony or a disqualifying crime if:

- the handgun is unloaded;
- it is within two business days after the conviction;
- the person has notified law enforcement that the handgun is being transported to a law enforcement official or to a federally licensed firearms dealer for the purposes of transferring the firearm to the official or dealer; and
- the person transports the handgun directly to the law enforcement official or firearms dealer.

Similar exceptions are provided for carrying or transporting a regulated firearm, including an assault weapon, and the possession of a rifle or shotgun for surrender to a law enforcement official or firearms dealer.

Current Law: A “disqualifying crime” means a crime of violence, felony, or a misdemeanor that carries a statutory penalty of more than two years. “Convicted of a disqualifying crime” includes a case in which a person received probation before judgment for a crime of violence and a case in which a person received probation before judgment in a domestically related crime. “Convicted of a disqualifying crime” does not include a case in which a person received a probation before judgment for second-degree assault or a crime which was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article.

State law provides an exception to the prohibition against wearing, carrying, or transporting a handgun by a person who is carrying a court order to surrender the weapon if the handgun is unloaded, the person has notified law enforcement that the handgun is being transported in accordance with the court order, and the person transports the handgun directly to the law enforcement unit. A similar exception is provided for the transportation of a rifle or shotgun for surrender to a law enforcement unit.

A “crime of violence” (under § 5-501 of the Public Safety Article) means (1) abduction; (2) first-degree arson; (3) first- or second-degree assault; (4) first-, second-, or third-degree burglary; (5) carjacking and armed carjacking; (6) first-degree escape; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) first- or second-degree murder; (12) first- or second-degree rape; (13) robbery; (14) robbery with a dangerous weapon; (15) first-, second-, or third-degree sexual offense; (16) home invasion; (17) an attempt to commit offenses 1 through 16; or (18) assault with the intent to commit offenses 1 through 16 or a crime punishable by imprisonment for more than one year.

A “domestically related crime” (under § 6-233 of the Criminal Procedure Article) is a crime committed by a defendant against a victim who is a “person eligible for relief” (under § 4-501 of the Family Law Article), or is a person who had a sexual relationship with the defendant within 12 months before the commission of the crime. Under the applicable provisions of the Family Law Article, a “person eligible for relief” includes (1) the current or former spouse of the respondent; (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; (6) an individual who has a child in common with the respondent; or (7) an individual who has had a sexual relationship with the respondent within one year before the filing of the petition.

State Expenditures: Under the bill, DPSCS is responsible for tracking filings of written notice of completed transactions, proof of transfers, and related affidavits. Although the Handgun Permit Review Board is within DPSCS, the department does not otherwise have a tracking system related to firearms. Thus, general fund expenditures increase by \$107,417 in fiscal 2017, which accounts for a 120-day start-up delay. This estimate reflects the cost of hiring two administrative officers for the Intelligence and Investigation Division within DPSCS to develop procedures for the collection of filings and to carry out the bill’s requirements. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$97,788
Other Operating Expenses	<u>9,629</u>
Total FY 2017 State Expenditures	\$107,417

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

It is assumed that the bill has no impact in fiscal 2016, despite the bill’s June 1, 2016 effective date.

DSP advises that the bill’s requirements can be handled with existing budgeted resources. It is assumed that other State law enforcement agencies can also implement the bill with existing budgeted resources.

Additional Information

Prior Introductions: SB 530 of 2015, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken on the bill. Its cross file, HB 857, received a hearing in the House Judiciary Committee but was subsequently withdrawn.

Cross File: HB 1001 (Delegate Smith, *et al.*) - Judiciary.

Information Source(s): Montgomery and Prince George's counties, City of Takoma Park, Department of Public Safety and Correctional Services, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

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