

Department of Legislative Services
 Maryland General Assembly
 2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 846
 Judiciary

(Delegate Rey, *et al.*)

Public Safety - Crime Gun Reporting and Analysis

This bill requires a law enforcement agency to report specified information to the Department of State Police (DSP) within 24 hours after the seizure or recovery of a firearm relating to a crime. The bill also requires DSP to submit an annual report and statistical analysis to the General Assembly on all firearms relating to a crime recovered in the State during the previous calendar year. Finally, the bill establishes enforcement provisions that apply if a law enforcement agency fails to comply with the bill’s reporting requirements.

The bill takes effect July 1, 2016.

Fiscal Summary

State Effect: General fund expenditures for DSP increase by \$3.3 million in FY 2017 to receive and conduct additional firearms traces and review and compile statistical data; future year DSP expenditures reflect annualization and inflation. State expenditures (multiple fund types) for other State law enforcement agencies may increase to comply with the bill’s reporting requirements, although some State law enforcement units can likely implement the bill with existing resources. Potential minimal increase in general fund revenues from the bill’s civil penalty provision.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
GF Revenue	-	-	-	-	-
GF Expenditure	\$3,294,300	\$4,187,400	\$4,342,800	\$4,504,400	\$4,672,400
GF/SF/HE Exp.	-	-	-	-	-
Net Effect	(\$3,294,300)	(\$4,187,400)	(\$4,342,800)	(\$4,504,400)	(\$4,672,400)

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

Local Effect: While some local law enforcement agencies can implement the bill with existing resources, others may incur costs to meet the bill’s reporting requirements.

Revenues are not affected. **This bill may impose a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Bill Summary: A report submitted by a law enforcement agency to DSP must include:

- a full identification and description of the firearm;
- the type of criminal offense in connection with which the firearm was seized or recovered;
- identifying information for each person arrested in connection with or otherwise involved in the firearm seizure or recovery;
- a description of any vehicle involved in the firearm seizure or recovery;
- the address or location where the firearm seizure or recovery occurred;
- the possessory interest in the firearm of the person from whom the firearm was seized;
- the investigating officer's name and identification number; and
- any additional information requested by DSP.

A law enforcement agency is not required to report (1) the voluntary surrender of a firearm from an estate; (2) a firearm that is abandoned or found unattended and has not been reported stolen and that has no known connection to a crime; or (3) the temporary surrender or seizure of a firearm with no connection to a criminal investigation.

If a law enforcement agency fails to comply with the reporting requirements, DSP must report the noncompliance to the Office of the Attorney General (OAG) and OAG must contact the law enforcement agency and request that the agency comply. If the law enforcement agency fails to comply within 30 days after being contacted by OAG, the chief or sheriff of the law enforcement agency is subject to a civil fine of up to \$1,000.

By January 31 each year, DSP must submit a report and statistical analysis to the General Assembly on all firearms relating to a crime recovered in the State during the previous calendar year. The report must include:

- the number, make, and type of firearms recovered, broken down by city, county, region, and total statewide recoveries;
- the number of firearms that were seized from prohibited persons, by type;

- the number of firearms that were seized from prohibited persons with a prior Maryland felony conviction, by type;
- the number of firearms recovered that were stolen, whether or not formally reported as stolen;
- the number of firearms recovered with no serial number or an obliterated serial number;
- the number of firearms, by type, recovered after being suspected of having been used to commit a suicide;
- the number of firearms seized from persons who are prohibited from possessing firearms due to mental illness;
- the number of firearms, by type, recovered by each law enforcement agency;
- the number of firearms recovered in a county other than the county where the firearm originated; and
- for each firearm recovered in Baltimore City in connection with the arrest of a suspect, a description of the charges filed against the suspect, the disposition of the charges, and any sentence imposed.

The type of gun must be identified in the report as rifle, semi-automatic rifle, shotgun, semi-automatic shotgun, handgun, semi-automatic handgun, assault rifle as defined under current law, and fully automatic machine gun.

Current Law: A person may not possess a regulated firearm, a rifle, or a shotgun if the person:

- has been convicted of a disqualifying crime;
- has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is a fugitive from justice;
- is a habitual drunkard;
- is addicted to a controlled dangerous substance or is a habitual user;
- suffers from a mental disorder and has a history of violent behavior against the person or another;
- has been found incompetent to stand trial;
- has been found not criminally responsible;
- has been voluntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders;
- has been involuntarily committed to a facility that provides treatment or other services for mental disorders;

- is under the protection of a guardian of the person or property of a disabled person appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is a respondent against whom a current non ex parte civil protective order has been entered in this State or an order for protection has been issued by a court of another state or a Native American tribe and is in effect; or
- if younger than age 30 at the time of possession, has been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

In addition, a person is prohibited from possessing a regulated firearm, a rifle, or a shotgun if the person was previously convicted of (1) a crime of violence; (2) a violation of specified controlled dangerous substances law; (3) an offense under the laws of another state or the United States that would constitute one of these crimes if committed in this State.

With certain exceptions, a person who is younger than age 21 may not possess a regulated firearm.

Background: The Maryland Gun Center in the Firearms Enforcement Unit of DSP, which opened January 1, 2013, was established in an effort to reduce gun crime and assist State and local law enforcement. The center operates around the clock and is available to any prosecutor or law enforcement officer to assist with the interpretation and prosecution of both federal and State firearms laws. The unit is comprised of seven employees. In 2015, the unit conducted 1,500 traces of seized handguns in the State. In the same time period, Prince George’s County law enforcement conducted 1,400 traces for handguns.

State Expenditures: General fund expenditures for DSP increase by \$3.3 million in fiscal 2017, which accounts for a 90-day start-up delay. This estimate reflects the cost of hiring 1 senior program manager, 4 administrators, and 32 administrative officers to receive and conduct additional firearms traces and review and compile statistical data as required by the bill. The estimate assumes that DSP handles an additional 6,200 traces for handguns each year as a result of the bill, which represents a 413% increase in data collection workload for DSP. DSP advises that, on average, each employee at the Maryland Gun Center is capable of handling approximately 200 traces annually. The estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including rental space.

Positions	37
Salaries and Fringe Benefits	\$3,043,593
Equipment and Operating Expenses	178,137
Rental Space	<u>72,600</u>
Total FY 2017 DSP Expenditures	\$3,294,330

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

Other State agencies with law enforcement units may also be affected. For example, the Natural Resources Police (NRP) within the Department of Natural Resources seizes a number of firearms each year in connection with a variety of crimes relating mostly to hunting and other natural resource violations. Thus, the bill's reporting requirement could have a significant operational impact on NRP. The Maryland Department of Transportation advises that the Maryland Transportation Authority can implement the bill with existing resources, but that the bill likely has an operational impact on the Maryland Transit Administration. It is unclear to what extent other State agencies with law enforcement units may be affected. To the extent the bill's requirements cannot be handled with the existing budgeted resources of these agencies, State expenditures (multiple fund types) may increase.

Local Expenditures: While several local law enforcement agencies indicate that the bill's reporting requirements can be met with existing resources, Montgomery County advises that the bill requires the county police department to hire an additional employee at a cost of approximately \$11,300 annually.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Anne Arundel, Charles, and Montgomery counties; City of College Park; Department of State Police; Department of Natural Resources; Maryland Department of Transportation; Governor's Office of Crime Control and Prevention; Department of Legislative Services

Fiscal Note History: First Reader - March 14, 2016
min/lgc

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