

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 294
Judiciary

(Delegate Dumais, *et al.*)

Judicial Proceedings

Public Safety - Regulated Firearms - Definition of Convicted of a Disqualifying Crime

This bill alters the definition of “convicted of a disqualifying crime” for general provisions of law relating to regulated firearms, rifles, and shotguns to include a case in which a person received a probation before judgement for assault in the second degree if the crime was a domestically related crime.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues and expenditures due to the application of existing monetary and incarceration penalties to additional cases. It is assumed that the Judiciary can handle the bill’s requirements with existing resources.

Local Effect: Potential minimal increase in revenues and expenditures due to the application of existing monetary and incarceration penalties to additional cases. The bill is not anticipated to materially affect the circuit courts.

Small Business Effect: None.

Analysis

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; or (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.

A violator is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or \$10,000 fine.

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.

“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.

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.

Background: The Judiciary advises that, in fiscal 2016, there were 1,995 violations in the District Court and 2,211 violations in the circuit courts relating to a person possessing a regulated firearm after being convicted of a disqualifying crime. In addition, there were 282 violations in the District Court and 413 violations in the circuit courts relating to a person possessing a rifle or shotgun after being convicted of a disqualifying crime.

Additional Information

Prior Introductions: None.

Cross File: SB 224 (Senator Lee, *et al.*) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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