

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 826
(Senator Conway)
Judicial Proceedings

**Wearing, Carrying, or Transporting a Handgun - Penalties - Subsequent
Offenders**

This bill prohibits a court from suspending any part of a mandatory sentence for the violation of certain laws regarding carrying a handgun if the person has been previously convicted one or more times of specified crimes.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures for incarceration. Revenues are not materially affected.

Local Effect: Potential minimal increase in local expenditures for incarceration. Revenues are not materially affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill prohibits a court from suspending a sentence if the person has been previously convicted one or more times for a violation of (1) the prohibition against wearing, carrying, or transporting a handgun without a permit, whether concealed or open, on or about the person or in a vehicle on a road, highway, waterway, or airway, while on public school property, or with the deliberate purpose of injuring or killing another person; (2) the prohibition against the use of a handgun or antique firearm in the commission of a crime; (3) the prohibition against wearing or carrying a specified dangerous weapon; and (4) prohibitions against specified dangerous weapons on school property.

Current Law: With specified exceptions, a person may not (1) wear, carry, or transport a handgun, whether concealed or open, on or about the person or (2) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State. For the vehicular prohibition, there is a rebuttable presumption that a person who transports the handgun does so knowingly. A violator is guilty of a misdemeanor and, depending on the circumstances of the violation, subject to a mandatory minimum sentence ranging from 30 days to 5 years and a maximum imprisonment penalty of 3 years for a first offense or 10 years if the violator has specified prior convictions. Certain circumstances also subject the person to monetary fines of amounts between \$250 and \$2,500.

The Secretary of State Police may issue a permit to wear, carry, or transport a handgun to a person who meets certain requirements and who has a “good and substantial” reason. “Good and substantial reason” includes a finding that the permit is necessary as a reasonable precaution against apprehended danger.

A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified under Title 5 of the Public Safety Article. Among other restrictions, a person may not possess a regulated firearm in the State if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. With specified exceptions, such as for a member of the U.S. Armed Forces or the National Guard while performing official duties, a person younger than age 21 also may not possess a regulated firearm. A violator is guilty of a felony and subject to a nonsuspendable, nonpardonable, mandatory minimum sentence of five years. Each violation is a separate offense. Under a separate prohibition relating to knowing participation in a violation of certain laws regarding the possession of a regulated firearm, a violator is guilty of a misdemeanor and subject to imprisonment for up to five years and/or a fine of up to \$10,000.

Background: The Department of Public Safety and Correctional Services indicates that, in fiscal 2016, the Division of Correction had 500 intakes for handgun offenses.

Additional Information

Prior Introductions: None.

Cross File: HB 1396 (Delegate Clippinger, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); 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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