

Department of Legislative Services  
Maryland General Assembly  
2017 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

Senate Bill 946

(Senator Smith, *et al.*)

Judicial Proceedings

Appropriations

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**Gun-Free Higher Education Zones**

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This bill prohibits, with specified exceptions, a person from knowingly carrying or possessing a firearm on the property of a public institution of higher education. A violator is subject to a maximum civil fine of \$1,000. The bill establishes (1) exceptions from this prohibition and (2) procedures for the prosecution of related civil cases. The bill also (1) alters provisions relating to an exception from the prohibition on carrying or possessing specified weapons on specified property for an off-duty or retired law enforcement officer and (2) requires the Board of Regents for the University System of Maryland (USM) to incorporate into their bylaws, policies, and procedures the current weapons practice on their campuses.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues due to the bill's penalty provision. Minimal increase in special fund revenues due to additional revenues generated from court costs and distributed to the Criminal Injuries Compensation Fund (CICF), the State Victims of Crime Fund, and the Victim and Witness Protection and Relocation Fund. Since it is assumed that a violation of the bill occurs in a limited number of cases, State expenditures for the Judiciary are not materially affected. USM can update their bylaws, policies, and procedures with existing budgeted resources. Enforcement can be handled with existing resources.

**Local Effect:** The bill is not anticipated to materially affect local finances or operations. Enforcement can be handled with existing resources.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *Prohibition on Knowingly Carrying or Possessing a Firearm on the Property of a Public Institution of Higher Education*

The prohibition does not apply to a law enforcement officer, a retired law enforcement officer in good standing, a guard hired by the institution, a person engaged in organized shooting activity for educational purposes, a person engaged in other specified historical activities for educational purposes with a written invitation from the president of the institution, a person who is required or authorized by policies of the institution to possess a firearm, or an employee of an armored car company authorized to carry a firearm for employment.

In addition, the prohibition does not apply to (1) the area surrounding a building owned or operated by a public institution of higher education for the purpose of student housing, teaching, research, or administration, as specified or (2) property used by a public institution of higher education that is owned by an individual or private entity, unless the property is used for student housing.

#### *Exceptions from the Existing Prohibition Relating to Public School Property and the Bill's Prohibition Relating to Property of a Public Institution of Higher Education*

The bill also alters provisions relating to the exception from the existing prohibition on carrying or possessing a firearm, knife, or deadly weapon of any kind on public school property for an off-duty or retired law enforcement officer. First, the bill alters the requirement that an officer or retired officer must *display* the officer's or retired officer's badge or credential and instead requires that the badge or credential is *in the officer or retired officer's possession*. Second, the bill repeals the requirement that the person must be a parent, guardian, or visitor of a student attending the school. These changes also apply to the exception for an off-duty or retired law enforcement officer from the bill's prohibition on knowingly carrying or possessing a firearm on the property of a public institution of higher education.

#### *Procedures for the Prosecution of Civil Cases under the Bill*

A police officer must issue a citation to a person who the officer has probable cause to believe has committed a violation of the bill's prohibition on knowingly carrying or possessing a firearm on the property of a public institution of higher education, as specified. If a person is issued a citation for such a violation and is at least age 18, the court must summon the person for trial.

The District Court may not establish a schedule for the prepayment of the fine. The issuing jurisdiction must forward a copy of the citation and a request for trial to the District Court in the district that has venue. A violation of the bill's prohibition is a code violation. Adjudication of the civil offense involving the possession of a firearm on the property of a public institution of higher education is not a criminal conviction for any purpose and does not impose any of the civil disabilities that may result from a criminal conviction.

In any proceeding for a code violation involving the possession of a firearm on the property of a public institution of higher education (1) the State has the burden to prove the defendant guilty beyond a reasonable doubt; (2) the court must apply the evidentiary standards as prescribed by law for the trial of a criminal case; (3) the court must ensure that the defendant receives a copy of the charges and that the defendant understands those charges; (4) the defendant is entitled to cross-examine all witnesses who appear against the defendant, to produce evidence or witnesses on behalf of the defendant, and to testify in self-defense; (5) the defendant is entitled to representation by counsel of the defendant's choice and at the defendant's expense; and (6) the defendant may enter a plea of guilty or not guilty, and the verdict of the case must be guilty of a code violation, not guilty of a code violation, or probation before judgment. A defendant who has been found guilty has the right to appeal or to file a motion for a new trial or a motion for a revision of a judgment provided by law in the trial of a criminal case, as specified.

A defendant is liable for costs of the proceedings in the District Court and for payment to CICF. The court costs are \$5.

The State's Attorney for any county may prosecute a code violation in the same manner as the prosecution of a violation of the criminal laws of the State. The State's Attorney may also (1) enter a *nolle prosequi* or place the case on the stet docket and (2) exercise authority in the same manner as prescribed by law for violation of the criminal laws of the State.

A minor who violates the prohibition for possession of a firearm on the property of a public institution of higher education is subject to juvenile court procedures and dispositions.

**Current Law:** There is no general prohibition in State law relating to firearms on the property of a public institution of higher education. However, a person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property. 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 who is convicted of carrying or possessing a handgun in violation of this prohibition must be sentenced under the misdemeanor penalty provisions applicable to illegally wearing, carrying, or transporting a handgun.

This prohibition does not apply to:

- a law enforcement officer in the regular course of the officer's duty;
- an off-duty law enforcement officer or a person who has retired as a law enforcement officer in good standing from a law enforcement agency of the United States, the State, or a local unit in the State who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that (1) the officer or retired officer is displaying the officer's or retired officer's badge or credential; (2) the weapon carried or possessed by the officer or the retired officer is concealed; and (3) the officer or retired officer is authorized to carry a concealed handgun in the State;
- 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 a replica of a weapon for educational purposes.

Handgun prohibitions pertain to (1) wearing, carrying, or transporting a handgun; (2) the use of a handgun or antique firearm in the commission of a crime; and (3) possession of a firearm at a public demonstration. Violators are guilty of a misdemeanor and subject to imprisonment for 30 days to 10 years, 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.

CICF within the Department of Public Safety and Correctional Services is a special fund that provides financial assistance for innocent victims of crime. The Criminal Injuries Compensation Board (CICB) may compensate victims who suffer physical or psychological injury for their medical expenses and loss of earnings, but only if the injury is a direct result of a criminal or delinquent offense. In cases of homicide, the board may assist with funeral expenses and loss of support on the part of the victim's dependents. A claimant seeking compensation from CICF must file a claim no later than three years after the occurrence of the crime or delinquent act or the death of the victim. In a case of child abuse, a claimant may file a claim up to three years after the claimant knew or should have known of the abuse. A person who commits the crime or delinquent act that is the basis of a claim, or an accomplice of the person, is not eligible to receive an award.

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

Although the bill specifies that adjudication of a code violation is not considered a criminal conviction, the bill states that a defendant “is liable for the costs of the proceedings in the District Court and for payment to the Criminal Injuries Compensation Fund.” The bill also establishes that court costs in a code violation case for possession of a firearm on the property of a public institution of higher education are \$5. Thus, it is assumed that a defendant subject to a citation under the bill has to pay the \$35 Criminal Injuries Compensation costs imposed on defendants convicted of a crime in the District Court and the \$5 court cost authorized under the bill. As a result, special fund revenues increase minimally due to additional revenues generated from court costs and distributed to CICF, the State Victims of Crime Fund, and the Victim and Witness Protection and Relocation Fund. The distribution of applicable court costs and Criminal Injuries Compensation costs to these special funds is described below.

Court costs are imposed on a defendant convicted of a crime in the amount of \$35 for the District Court. These costs are sometimes referred to as Criminal Injuries Compensation costs. The Comptroller deposits each \$35 fee collected in the District Court into various special funds as follows: (1) \$12.50 into the State Victims of Crime Fund (administered by the Governor’s Office of Crime Control and Prevention); (2) \$2.50 into the Victim and Witness Protection and Relocation Fund (administered by the State’s Attorneys’ coordinator); and (3) the remainder (\$20) into CICF (administered by CICB).

A court may also impose separate court costs on a defendant in a criminal or traffic case. In addition to the monies transferred as described above, the Comptroller is required to distribute funds from court costs imposed in District Court criminal and traffic cases as follows: (1) \$500,000 to CICF; and (2) \$125,000 to the Victim and Witness Protection and Relocation Fund.

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### **Additional Information**

**Prior Introductions:** HB 1002 of 2016, a similar bill, passed the House with amendments and was referred to the Senate Judicial Proceedings Committee, but no further action taken. Its cross file, SB 906, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 311 of 2011, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. In addition, similar bills were introduced in the 2010 and 2009 sessions.

**Cross File:** None.

**Information Source(s):** Baltimore City; Caroline and Montgomery counties; City of Bowie; Office of the Public Defender; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); University System of Maryland; Baltimore City Community College; Morgan State University; St. Mary's College of Maryland; Department of State Police; Department of Legislative Services

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