

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 122

(Senator Zirkin)

Judicial Proceedings

Judiciary and Appropriations

Criminal Law – Comprehensive Crime Bill of 2018

This bill (1) increases several criminal penalties and alters criminal offenses and related statutes; (2) amends and establishes various procedures pertaining to criminal investigations and cases; (3) requires specified funding of violence prevention-related initiatives; and (4) establishes the Task Force to Study Maryland’s Criminal Gang Statutes. **Provisions relating to the task force terminate June 30, 2019.**

Fiscal Summary

State Effect: General fund expenditures increase by at least \$5.1 million in FY 2019 and by at least \$10.3 million annually from FY 2020 through 2023. Special fund revenues and expenditures increase by \$5.0 million annually from FY 2020 through 2023. The FY 2019 budget as amended by both houses includes \$5.0 million for the special fund established by the bill. Potential significant increase in cumulative general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) in future years. Potential significant decrease in general fund fine revenues. **This bill establishes several mandated appropriations from FY 2020 through 2023.**

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
GF Revenue	(-)	(-)	(-)	(-)	(-)
SF Revenue	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
GF Expenditure	\$5,111,900	\$10,347,500	\$10,350,700	\$10,354,100	\$10,357,500
SF Expenditure	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
Net Effect	(\$5,111,900)	(\$10,347,500)	(\$10,350,700)	(\$10,354,100)	(\$10,357,500)

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

Local Effect: Baltimore City grant revenues and expenditures increase by \$4.5 million in FY 2020 through 2023 due to various mandated appropriations. Baltimore City and other local jurisdictions may also benefit from other grant programs established by the bill.

Potential significant increase in revenues from fines imposed in fentanyl-related circuit court cases. Local incarceration expenditures may decrease.

Small Business Effect: None. Small businesses are not directly affected by the bill.

Analysis

Bill Summary:

I. Penalty/Criminal Offense Provisions

For information on the bill's changes to existing criminal offenses and penalty provisions, see **Appendix 1 – Penalties Under Current Law and Under the Bill**.

II. Procedural Provisions

Interception of Communications – Firearms Crimes

The bill adds the following offenses under the Public Safety Article to the list of crimes for which evidence may be gathered during a criminal investigation through the interception of oral, wire, or electronic communications: § 5-134 (restrictions on sale, rental, or transfer of regulated firearms); § 5-136 (straw purchases); § 5-138 (sale, transfer, or disposal of stolen regulated firearms); § 5-140 (transporting regulated firearm for unlawful sale or trafficking); § 5-141 (knowing participation in straw purchase); and § 5-144 (knowing participation in a violation of Title 5, Subtitle 1 of the Public Safety Article). The bill also adds these offenses to the list of crimes for which a judge may grant an order authorizing the interception of wire, oral, or electronic communications.

Right of Appeal – Firearms Crimes

The bill adds the following offenses to the list of criminal cases in which the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights: (1) unlawful possession of a regulated firearm under § 5-133 of the Public Safety Article; (2) unlawful possession of a rifle or shotgun by a person (general) under § 5-205 of the Public Safety Article; and (3) unlawful possession of a rifle or shotgun by a person with specified prior convictions under § 5-206 of the Public Safety Article.

Substance Abuse Evaluation and Commitment

The bill prohibits a person charged with, convicted of, or serving a sentence for a crime of violence from being evaluated for or committed to substance abuse treatment with the Maryland Department of Health (MDH) until the person is eligible for parole.

Petition for U Nonimmigrant Status

The bill establishes provisions by which a victim or a victim's family member may request specified entities to certify victim helpfulness for purposes of obtaining U Nonimmigrant Status with the U.S. Citizenship and Immigration Services (USCIS). The victim must have been a victim of a qualifying criminal activity and demonstrated helpfulness to the certifying entity, as specified, in the detection, investigation, or prosecution of the qualifying criminal activity. If the victim satisfies the criteria, the certifying official must fully complete and sign the relevant certification form.

A "certifying entity" means (1) a State or local law enforcement agency; (2) a State's Attorney or deputy or assistant State's Attorney; (3) any other authority that has responsibility for the detection, investigation, or prosecution of a qualifying crime or criminal activity; or (4) an agency that has criminal detection or investigative jurisdiction in the agency's respective areas of expertise, including child protective services, the Commission on Civil Rights, and the Department of Labor, Licensing, and Regulation.

A "certifying official" means (1) the head of a certifying entity; (2) an individual in a supervisory role who has been specifically designated by the head of a certifying entity to issue the relevant certification forms on behalf of that entity; and (3) any other certifying official, as specified in federal regulations.

"Qualifying criminal activity" means qualifying criminal activity under § 101(a)(15)(u)(iii) of the Immigrant and Nationality Act.

For purposes of filing a petition with USCIS for U Nonimmigrant Status, a victim or the victim's family member may request a certifying official of a certifying entity to certify victim helpfulness if the victim (1) was a victim of a qualifying criminal activity and (2) has been helpful, is being helpful, or is likely to be helpful to the certifying entity in the detection, investigation, or prosecution of that qualifying criminal activity. For purposes of determining helpfulness, if the victim is assisting, has assisted, or is likely to assist law enforcement authorities in the detection, investigation, or prosecution of qualifying criminal activity, the victim must be considered to meet the criteria.

If the victim satisfies the criteria, the certifying official must fully complete and sign the specified certification form and, with respect to victim helpfulness, include (1) specific

details about the nature of the crime detected, investigated or prosecuted; (2) a detailed description of the victim's helpfulness or likely helpfulness; and (3) copies of any documents in the possession of the certifying official that demonstrate the harm endured by the victim due to the criminal activity.

The certifying entity must certify or decline certification of the form within 90 days after receiving a request. If a noncitizen victim is the subject of removal proceedings, the certifying entity must certify or decline certification of the form within 14 days after receiving a request. A current investigation, the filing of charges, a prosecution, or a conviction is not required for a victim or the victim's family member to request and obtain the certification.

A certifying official may withdraw the certification only if the victim refuses to provide information and assistance when reasonably requested. A certifying entity may disclose the immigration status of the victim or person requesting the certification only to comply with State or federal law, if ordered by a court of competent jurisdiction, as required under the Maryland Rules, or if authorized by the victim or a person requesting the certification.

Task Force to Study Maryland's Criminal Gang Statutes

The bill establishes the Task Force to Study Maryland's Criminal Gang Statutes, to be staffed by the Governor's Office of Crime Control and Prevention (GOCCP). The task force is required to study existing State prohibitions on criminal gang-related activity and the efficacy of existing law in being used to obtain criminal convictions against individuals who engage in criminal gang-related activity. The task force must make recommendations regarding changes to State law to better deter, prosecute, and punish criminal gang-related activity. The task force must report its findings and recommendations to the Governor and the General Assembly by December 31, 2018. The provisions pertaining to the task force terminate June 30, 2019.

III. Funding Provisions

The bill establishes the Tyrone Ray Violence Intervention and Prevention Fund and requires the Governor to appropriate funding for the new special fund and other specified miscellaneous grant programs in the annual State budget for fiscal 2020 through 2023.

Tyrone Ray Violence Intervention and Prevention Fund

The bill establishes the Tyrone Ray Violence Intervention and Prevention Fund and the Maryland Violence Intervention and Prevention Advisory Council within GOCCP. The stated purpose of the fund, which is administered by the Executive Director of GOCCP in consultation with the council, is to (1) support effective violence reduction strategies by

providing competitive grants to local governments and nonprofit organizations to fund evidence-based health programs or evidence-informed health programs; (2) evaluate the efficacy of the funded programs (using no more than 5% of the fund); and (3) support pretrial release services programs.

For fiscal 2020 through 2023, the Governor must annually appropriate at least \$5 million to the fund. The fund consists of (1) money appropriated in the State budget to the fund; (2) investment earnings; and (3) any other money from any other source accepted for the benefit of the fund. Expenditures from the fund may be made only in accordance with the State budget.

Money distributed from the fund may not be used to (1) supplant funding that would otherwise be available for violence intervention programs or (2) fund suppression activities by law enforcement.

The fund is subject to audit by the legislative auditor, as specified.

Maryland Violence Intervention and Prevention Advisory Council

The Maryland Violence Intervention and Prevention Advisory Council consists of the Executive Director of GOCCP and individuals appointed by the President of the Senate, the Speaker of the House, and the executive director, as specified. A member of the council may not receive compensation but is entitled to reimbursement for travel expenses.

The council is governed by a majority vote and must:

- advise the executive director on the allocation of funds to evaluate the efficacy of specified funded programs and select a third-party researcher to conduct this evaluation;
- provide input to the executive director on the administration of the fund;
- assist the executive director in establishing procedures for (1) local government and nonprofit organizations to apply for funding and (2) distribution of funding;
- create guidelines for funding eligibility;
- review and publish specified reports; and
- advise the Governor and the executive director on the implementation of gun violence prevention programs in the State.

The bill establishes provisions relating to the application process for grants and distribution of funds. Grant recipients must receive funding awards for at least three consecutive fiscal years. Preference for funding must be given to local governments or nonprofit organizations (1) that are disproportionately affected by violence, as determined by the

council and (2) whose grant proposals demonstrate the greatest likelihood of reducing gun violence in their communities. Funding awards must be commensurate with (1) the levels of gun violence in the jurisdiction served by the grant recipient and (2) the strength of the application.

A local government or nonprofit organization that receives funding must (1) provide a cash or in-kind match equivalent to 33% of the amount awarded, except as specified and (2) use the award to supplement and not supplant funding that would otherwise be available to implement evidence-based or evidence-informed health programs, as specified. Grant recipients must submit a report containing specified information to the executive director at the end of each grant cycle.

State Police Funding

For fiscal 2020 through 2023, the Governor must appropriate \$466,600 annually in the State budget for the Department of State Police (DSP), in coordination with the Attorney General, to form a designated unit of law enforcement officers who are selected, trained, and equipped to work as a team to investigate firearm trafficking, straw purchases, the movement of illegal firearms, and offenses related to these activities that may exceed the capabilities of other investigating units within DSP. The appropriated funds must be used only to supplement and not supplant funding otherwise available to DSP and the Attorney General.

Funding for Initiatives in Baltimore City

The bill contains several mandated appropriations for initiatives in Baltimore City, as described in **Exhibit 1**. The bill requires the Governor to appropriate the amounts listed below annually in the annual State budget for fiscal 2020 through 2023. The appropriated funds must be used only to supplement and not supplant funding otherwise available. Additional information about the Safe Streets Initiatives is listed below.

Exhibit 1
Mandated Appropriations for Initiatives in Baltimore City
Fiscal 2020 through 2023

<u>Initiative/Program</u>	<u>Annual Mandated Appropriation</u> <u>(Fiscal 2020 through 2023)</u>
Safe Streets Initiatives*	\$3,600,000
Law Enforcement Assisted Diversion (LEAD) Program in Baltimore City	425,000
Baltimore City State’s Attorney’s Office – Relocation of victims and witnesses of crime	360,000
Baltimore Chesapeake Bay Outward Bound School	300,000
Strategic decision support centers – Eastern and Western Districts of Baltimore City	100,000

*“Safe Streets Initiative” means a violence prevention or intervention program operated by a community-based organization in a neighborhood that is disproportionately affected by violent crime. The appropriated funds may not (1) require a matching fund; (2) exceed \$300,000 per Safe Streets Initiative; or (3) supplant grant funding otherwise available for Safe Streets Initiatives. The bill requires the Governor to appropriate these funds to Baltimore City for the purpose of making Safe Streets grants.

Source: Department of Legislative Services

Restrictions on the Use of Funds and Reporting Requirements

A local government or nonprofit entity that receives funding under the bill may use the funds only in accordance with the bill’s provisions and must comply with any data sharing and reporting requirements established by the Executive Director of GOCCP.

The executive director must establish outcome-based performance measures to track the performance of funded programs and activities. By October 1 of each year, beginning in 2020, GOCCP must place on its website, in an easily accessible location, a filterable display of data collected during the previous fiscal year for these outcome-based performance measures. Each year, GOCCP must notify the Governor and the Legislative Policy Committee in writing when the updated filterable data is available on its website.

Current Law:

I. Penalty Provisions

For information on existing penalties for offenses affected by the bill's provisions, see Appendix 1 – Penalties Under Current Law and Under the Bill.

II. Procedural Provisions

Interception of Communications

Except as otherwise provided in statute, it is unlawful for a person to:

- willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication;
- willfully disclose, or endeavor to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept; and
- willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

However, it is lawful for law enforcement officers and persons acting with the prior direction and under the supervision of law enforcement officials to intercept communications as part of a criminal investigation to provide evidence of the commission of specified crimes.

Wiretapping is also authorized if a person has created a barricade situation and there is probable cause to believe a hostage or hostages may be involved.

The exception applies so long as the investigative or law enforcement interceptor is a party to the communication or one of the parties to the communication has given prior consent to the interception.

The Attorney General, State Prosecutor, or any State's Attorney may apply to a judge of competent jurisdiction to grant an order authorizing interception of wire, oral, or electronic communications by investigative or law enforcement officers when the interception may provide or has provided evidence of the commission of specified crimes. However, no application or order is required if the interception is lawful under the general wiretap provisions.

Right of Appeal – Unlawful Possession of Firearm

The State may appeal from a final judgment granting a motion to dismiss or quashing or dismissing any indictment, information, presentment, or inquisition. The State may appeal from a final judgment if the State alleges that the trial judge (1) failed to impose the sentence specifically mandated by the Maryland Code or (2) imposed or modified a sentence in violation of the Maryland Rules.

In a case involving a crime of violence as defined in § 14-101 of the Criminal Law Article, and in cases involving specified controlled dangerous substances (CDS) offenses, the State may appeal from a decision of a trial court that excludes evidence offered by the State or requires the return of property alleged to have been seized in violation of the U.S. Constitution, the Maryland Constitution, or the Maryland Declaration of Rights.

The appeal must be made before jeopardy attaches to the defendant. However, in all cases, the appeal must be taken no more than 15 days after the decision has been rendered and must be diligently prosecuted.

Crimes of Violence under § 14-101 of the Criminal Law Article

Individuals convicted of a crime of violence under § 14-101 of the Criminal Law Article are eligible for various additional criminal penalties and earn diminution credits at a lower rate than other offenders.

Section 14-101(a) of the Criminal Law Article specifies offenses classified as crimes of violence. Section 14-101(b) through (d) imposes mandatory sentences for individuals who have prior convictions for these offenses and meet other specified criteria.

Section 14-101(a) defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a handgun in the commission of a felony or other crime of violence; (13) child abuse in the first degree; (14) sexual abuse of a minor younger than age 13 under specified circumstances; (15) home invasion; (16) an attempt to commit crimes (1) through (15); (17) continuing course of certain sexual conduct with a child; (18) assault in the first degree; and (19) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Mandatory Sentences for Crimes of Violence under § 14-101

Subsequent offenders sentenced for a crime of violence under § 14-101 of the Criminal Law Article are generally subject to mandatory sentences. For a second conviction of a

crime of violence committed on or after October 1, 1994, a person must be sentenced to a mandatory minimum, nonsuspendable term of 10 years, if the person has been convicted on a prior occasion of a crime of violence, including a conviction for a crime committed before October 1, 1994, and served a term for that conviction confined in a correctional facility.

Diminution Credits

Generally, inmates sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. Specified sexual offenders are not eligible to earn diminution credits. In addition, an inmate whose mandatory supervision release has been revoked may not be awarded any new diminution credits on the term of confinement for which the inmate was on mandatory supervision release.

Diminution credits are deducted from an inmate's "term of confinement," which is defined as (1) the length of the sentence, for a single sentence or (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for concurrent sentences, partially concurrent sentences, consecutive sentences, or a combination of concurrent and consecutive sentences.

Diminution credits are made for good conduct, work tasks, education, and special projects or programs, as follows:

- *For sentences imposed before October 1, 1992:* Good conduct credits are awarded at a rate of five days per month regardless of the offense.
- *For sentences imposed between October 1, 1992, and October 1, 2017:* Good conduct credits are awarded at the rate of 5 days per month if the inmate's term of confinement includes a sentence for a crime of violence under § 14-101 or distribution of CDS. Good conduct credits are awarded at the rate of 10 days per month for all other inmates (except for those inmates who are statutorily prohibited from earning diminution credits). Credits for work tasks and education may be awarded at the rate of up to 5 days per month. Special project credits may be awarded at the rate of up to 10 days per month. Such inmates may not be allowed a total deduction, including good conduct credits, of more than 20 days per month.
- *For sentences imposed on October 1, 2017, or later:* Chapter 515 of 2016 increased the maximum possible deduction for diminution credits from 20 days to 30 days per calendar month, except for inmates serving a sentence in a State correctional facility for a crime of violence under § 14-101, specified sexual offenses, or specified volume or kingpin drug offenses. Also, except for that same group of inmates, the

deduction for special selected work projects or other special programs, including recidivism reduction programming, increased from 10 to 20 days per calendar month. In addition, the maximum deduction for diminution credits increased for an individual who is serving a sentence in a local correctional facility (for a crime other than a crime of violence or specified volume drug offenses) from 5 to 10 days per month.

Parole and Mandatory Supervision

State inmates must serve either one-quarter or one-half of their sentences to be eligible for parole, depending on the offense (including crimes of violence). Parole eligibility for inmates sentenced to local detention centers is one-quarter regardless of the offense. Certain persons are not eligible for parole while serving a mandatory minimum sentence.

Generally, a person convicted of a violent crime under § 14-101 committed on or after October 1, 2009, is not eligible for release on mandatory supervision until after the person becomes eligible for parole under §7-301 of the Correctional Services Article (one-half of the inmate's sentence or specified timelines for inmates sentenced to life imprisonment). However, with specified exceptions, beginning October 1, 2017, a person sentenced for a crime of violence may petition for, and be granted, parole if the person (1) is at least age 60 and (2) has served at least 15 years of the sentence imposed.

Substance Abuse Evaluation and Commitment

Under § 8-507 of the Health-General Article, a court is authorized to refer an individual to substance abuse treatment as an alternative to incarceration. A court that finds in a criminal case that a defendant has an alcohol or drug dependency may commit the defendant to the MDH for a drug or alcohol treatment program. The commitment may be made as a condition of release, after conviction, or at any other time the defendant voluntarily agrees to participate in treatment. Before committing a defendant to MDH, the court must (1) offer the defendant the opportunity to receive treatment; (2) obtain the written consent of the defendant to receive treatment and to have information reported back to the court; (3) order an evaluation of the defendant under §§ 8-505 or 8-506 of the Health-General Article; (4) consider the report on the defendant's evaluation; and (5) find the treatment that MDH recommends appropriate and necessary.

A court may not order that the defendant be delivered for treatment until (1) MDH gives the court notice that an appropriate treatment program is able to begin treating the defendant; (2) any detainer based on an untried indictment, information, warrant, or complaint for the defendant has been removed; and (3) any incarceration sentence for the defendant is no longer in effect. A commitment must be for at least 72 hours but no more than one year. The court may extend the time period in increments of six months for good

cause shown. If the defendant withdraws consent to treatment, MDH must promptly notify the court and have the defendant returned to the court within seven days for further proceedings.

Chapter 515 of 2016 requires that, effective October 1, 2017, before imposing a sentence for a violation of laws prohibiting the possession of a CDS or 10 grams or more of marijuana, a court is authorized to order MDH, or a certified and licensed designee, to conduct an assessment of the defendant for a substance use disorder and determine whether the defendant is in need of and may benefit from drug treatment. MDH or the designee must conduct an assessment and provide the results, as specified. The court must consider the results of an assessment when imposing the defendant's sentence and, as specified, (1) must suspend the execution of the sentence, order probation, and require MDH to provide the medically appropriate level of treatment or (2) may impose a term of imprisonment and order the Division of Correction (DOC) within DPSCS or a local correctional facility to facilitate the medically appropriate level of treatment.

When ordered by a court, MDH must (1) conduct an assessment regarding whether, by reason of drug or alcohol abuse, a defendant is in need of and may benefit from treatment, as specified and (2) provide the name of a program *immediately* able to provide the recommended treatment to the defendant.

In addition, MDH must facilitate the *immediate* treatment of a defendant following a court order committing the defendant, under § 8-507 of the Health-General Article, to substance abuse treatment as an alternative to incarceration. If the court finds exigent circumstances, the court may delay a commitment order to MDH for no longer than 30 days. If a defendant is not placed in treatment within 21 days of the order, the court may order MDH to appear to explain the reason for the lack of placement.

U Nonimmigrant Status

Individuals without legal status in the United States who are victims of criminal activity may file for U Nonimmigrant Status, which is status set aside for victims of crimes who have suffered substantial mental or physical abuse due to the criminal activity and who are willing to assist law enforcement agencies or government officials in the investigation of that activity. In order to file for the status, the individual must provide a certification from a federal, state, or local law enforcement official that certifies the information as specified above. In determining whether to grant the status, USCIS will give the certification "significant weight" during adjudication. However, it alone is not sole evidence that a petitioner meets eligibility requirements, as USCIS will look at the totality of the circumstances surrounding the petition before rendering a decision.

Certifying agencies are under no legal obligation to complete the certification; however, without one, the individual is ineligible for U Nonimmigrant Status.

Background: **Exhibit 2** contains information from the Judiciary on the number of violations and guilty dispositions in the District Court and the circuit courts during fiscal 2017 for several of the offenses affected by the bill’s provisions. A violation is a charge filed in the court; it is not a conviction, and one person may be associated with more than one violation. The Judiciary advises that because its system is case based, it does not track or maintain statistics on defendants with subsequent violations (subsequent offenders).

Exhibit 2
Violations Filed and Guilty Dispositions in the District Court and the Circuit Courts
Fiscal 2017

Offense	District Court Violations	District Court Guilty Dispositions	Circuit Court Violations	Circuit Court Guilty Dispositions
Criminal Law Article, § 4-203 Wearing, Carrying, or Transporting a Handgun	1,991	34	2,182	292
Criminal Law Article § 4-204 Use of Firearm in Commission of Crime of Violence	2,516	0	2,767	263
Criminal Law Article § 5-621(b)(1) Using, Wearing, Carrying, or Transporting a Firearm – Drug Trafficking Crime	1,029	0	860	38
Criminal Law Article § 5-622 Possession, Owning, Carrying, or Transporting a Firearm – Prior Felony Conviction	671	0	650	55
Public Safety Article § 5-133(b) Prohibited Possession of a Firearm – General	1,817	13	1,870	245

Offense	District Court Violations	District Court Guilty Dispositions	Circuit Court Violations	Circuit Court Guilty Dispositions
Public Safety Article § 5-133(c) Prohibited Possession of a Firearm – Prior Conviction for Specified Crimes	1,127	0	1,522	252
Criminal Law Article, § 9-302 (Inducing False Testimony/Avoidance of Subpoena – misdemeanor)	34	N/A	37	N/A
Criminal Law Article, § 9-302 (Inducing False Testimony/Avoidance of Subpoena – felony)	15	N/A	22	N/A
Criminal Law Article, § 9-303 (Retaliation for Testimony – misdemeanor)	84	N/A	40	N/A
Criminal Law Article, § 9-303 (Retaliation for Testimony – felony)	39	N/A	26	N/A
Criminal Law Article, § 9-305 (Intimidating or Corrupting a Juror, etc. – misdemeanor)	42	N/A	69	N/A
Criminal Law Article, § 9-305 (Intimidating or Corrupting a Juror, etc. – felony)	8	N/A	74	N/A

N/A: not available

Source: Maryland Judiciary; Department of Legislative Services

State Fiscal Effect: Overall, general fund expenditures increase by at least \$5.1 million in fiscal 2019 and by at least \$10.3 million annually from fiscal 2020 through 2023. Special fund revenues and expenditures increase by \$5.0 million annually from fiscal 2020 through 2023. The fiscal 2019 budget as amended by both houses contains a \$5.0 million appropriation for the special fund established under the bill. General fund revenues from fines imposed in District Court cases may decrease significantly. General fund expenditures for DPSCS may increase significantly in the long-term, depending on the cumulative effect of the bill's penalty provisions, partially offset by reduced expenditures for parole hearings, as discussed below. General fund expenditures for MDH decrease minimally due to a reduction in drug treatment evaluations and services. The procedural elements of the bill are not expected to materially affect State finances, as discussed below.

Capitalizing the Tyrone Ray Violence Intervention and Prevention Fund

The fiscal 2019 budget as amended by both houses includes \$5 million in general funds for GOCCP for the Tyrone Ray Violence Intervention and Prevention Fund, but that funding is not contingent on the enactment of this bill. Accordingly, this analysis assumes that the intent of the bill is for GOCCP to award grants beginning in fiscal 2019, despite the fact that the mandated appropriation for the fund does not take effect until fiscal 2020. The Department of Legislative Services (DLS) notes that it may take some time, however, for the advisory council to be appointed and for GOCCP to establish grant application procedures. Thus, there could be a delay in the award of the fiscal 2019 grants. General fund expenditures also increase by \$5 million annually from fiscal 2020 through 2023 to capitalize the new fund, as required by the bill.

Special fund revenues to and expenditures from the new fund increase correspondingly from fiscal 2019 through 2023. This analysis does not reflect any additional special fund revenues that may accrue to the fund from investment earnings or other sources. Accordingly, fund activity could be higher. This analysis also assumes that all appropriated special funds are spent each year.

Mandated Appropriations for the Miscellaneous Grant Programs

In addition to the mandated appropriation for the Tyrone Ray Violence Intervention and Prevention Fund, as discussed above, general fund expenditures increase by an additional \$5,251,600 annually from fiscal 2020 through 2023 due to the bill's mandated appropriations for DSP (\$466,600 annually to form a designated law enforcement unit to investigate specified firearms-related offenses) and for the various Baltimore City initiatives, as shown above in Exhibit 1.

GOCCP Administrative Costs

General fund administrative expenditures for GOCCP increase by \$111,903 in fiscal 2019. This estimate reflects the cost of hiring one contractual program manager and one contractual fiscal specialist to manage grants, administer funds, and provide staffing in accordance with the bill's provisions, beginning July 1, 2018. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Despite the bill's October 1, 2018 effective date, it is assumed that the contractual positions begin July 1, 2018, so that GOCCP is able to complete the preliminary duties it must complete prior to awarding funding.

Contractual Positions	2
Salaries and Fringe Benefits	\$100,873
Operating Expenses	<u>11,030</u>
FY 2019 GOCCP Admin. Expenditures	\$111,903

Future year administrative expenditures, which range from \$95,925 in fiscal 2020 to \$105,914 in fiscal 2023, reflect full salaries with annual increases and employee turnover and ongoing operating expenses. This analysis assumes that the contractual employees are no longer needed beyond fiscal 2023, since the bill's mandated appropriations are limited to a four-year period. DLS advises that should funding and related GOCCP responsibilities be extended beyond fiscal 2023, permanent positions will be warranted.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State's implementation of the federal Patient Protection and Affordable Care Act.

Because the bill does not explicitly authorize the new special fund to be used to cover GOCCP's administrative costs, this analysis assumes that additional general funds beyond those provided to capitalize the new special fund are needed to cover those costs.

State Fine Revenues

General fund revenues may decrease significantly from fines imposed in the District Court in CDS cases. The bill prohibits the distribution *and* possession of (1) 5 grams or more of fentanyl and (2) 28 grams or more of any mixture containing a detectable amount of fentanyl. A violation results in a mandatory minimum of five years imprisonment and a fine of up to \$100,000.

Under current law, distribution of fentanyl is subject to criminal penalties applicable to the distribution of a Schedule I or II narcotic drug (*see* Appendix 1). Thus, maximum fines range from \$15,000 to \$25,000, depending on whether the offense is a first or subsequent

offense. Under current law, possession of CDS (including fentanyl) is a misdemeanor with a maximum fine of \$5,000.

Under the bill, an individual who possesses 5 grams or more of fentanyl or 28 grams or more of any mixture containing a detectable amount of fentanyl is subject to at least five years imprisonment and a maximum fine of \$100,000, rather than the less stringent misdemeanor penalties. As such, offenders charged with this crime under the bill are subject to the jurisdiction of the circuit court rather than the District Court.

According to DPSCS, there were 276 intakes for the possession of CDS in fiscal 2017. However, it is unknown how many of these offenses involved the bill's specified amounts of fentanyl. *For illustrative purposes only*, if 10% of these offenses involved the bill's specified amounts of fentanyl, general fund revenues could decrease by as much as \$138,000. This assumes that (1) all of these cases were brought in the District Court; (2) all of these cases were for first-time offenses; and (3) the maximum fine of \$5,000 was imposed for each case. Thus, general fund revenues decrease, potentially significantly, due to fewer cases being heard in the District Court for the possession of specified amounts of fentanyl.

DPSCS

General fund incarceration expenditures for DPSCS increase minimally in the near term to the extent the bill's wiretap provisions lead to more convictions and if individuals convicted of possession of specified amounts of fentanyl face increased penalties under the bill. However, long-term cumulative expenditures for DPSCS may increase significantly as a result of the bill's penalty provisions. The magnitude of the bill's impact on DPSCS expenditures cannot be reliably estimated at this time and depends on judicial sentencing practices, recidivism, and the bill's overall impact on cumulative additional incarceration time and reduced turnover of beds in State correctional facilities compounded over time.

The bulk of the bill's penalty provisions apply to penalties for subsequent offenders, increases of maximum penalties, and increases of existing minimum penalties. Thus, while the bill has a minimal impact on short-term incarceration expenditures, the bill may have a significant impact beyond the five-year estimate addressed in this fiscal and policy note. Listed below are illustrations of some of the potential effects of the bill's penalty provisions, based on information provided by DPSCS and the Judiciary.

- The bill prohibits a defendant serving a sentence for a crime of violence under § 14-101 of the Criminal Law Article from being eligible for evaluation or commitment to MDH for treatment until the defendant is eligible for parole. According to DPSCS, during fiscal 2017, 27 inmates convicted of crimes of violence were released into treatment. If these inmates had not been released, they

would have spent a collective 196 years in incarceration, an average of approximately 7 years per inmate. Information is not readily available on how parole eligibility would affect this additional incarceration time. Assuming that these statistics remain constant, the bill gradually reduces turnover of DOC beds by increasing the number of occupied beds until reaching a maximum of 189 beds in fiscal 2026, where it remains for each year thereafter as annual cohorts in this population enter and depart State correctional facilities. DPSCS further advises that from fiscal 2008 through 2017, an average of 44 inmates convicted of crimes of violence were released into treatment. Using this figure, the bill reduces turnover of DOC beds by 308 beds beginning in fiscal 2026 and each year thereafter.

- The bill alters penalties for subsequent offenders under § 4-203 of the Criminal Law Article. According to DPSCS, 33 inmates were convicted as subsequent offenders under § 4-203 during fiscal 2017, representing 39 offenses under that statute. DPSCS advises that its Offender Case Management System cannot distinguish between a subsequent offender with one prior conviction and a subsequent offender with more than one prior conviction. Three of the 39 offenses in this group were subject to the maximum sentence (10 years) under existing statute. Applying the bill's 15-year maximum penalty to these three offenses results in 15 years of additional incarceration (an additional 10.5 years with the application of diminution credits).
- A person convicted under § 5-133 of the Public Safety Article who does not have a prior conviction for a "predicate crime" is guilty of a misdemeanor, punishable by imprisonment for up to 5 years and/or a \$10,000 maximum fine. This penalty increases to a felony, punishable by a nonsuspendable, nonparolable minimum sentence of 5 years and a maximum incarceration penalty of 15 years for a person with a prior conviction for a predicate crime. The bill adds §§ 5-621 and 5-622 of the Criminal Law Article to the list of predicate crimes, thus expanding the number of individuals subject to the higher incarceration penalty under § 5-133. According to the Judiciary, there were 38 guilty dispositions under § 5-621(b)(1) and 55 guilty dispositions under § 5-622 in the circuit courts during fiscal 2017. The impact of this portion of the bill depends on recidivism among this population (including individuals with prior/older convictions for these offenses) and whether individuals convicted of these added offenses also have convictions for offenses currently classified as predicate crimes.
- DOC reports that during fiscal 2017, it conducted intake on five individuals sentenced for felony obstruction of justice offenses affected by the bill. Two of the inmates received the maximum sentence of 20 years, and one of the sentences was consecutive. The other inmates received concurrent sentences of 1, 9, and 10 years. DOC also conducted intake on six inmates sentenced for misdemeanor violations of

the affected statutes. Only one of the inmates received the maximum sentence of 5 years, and only one of the sentences is to be served consecutively. DOC did not provide information on sentences imposed on the other five inmates. Using the fiscal 2017 statistics from DOC, the average sentence for the five *felony* inmate intakes was 12 years. This represents 60% of the maximum incarceration penalty available under current statute. *For illustrative purposes only*, if judges sentence individuals convicted of *felony* offenses affected by the bill to 60% of the 30-year maximum incarceration penalty under the bill, then the average sentence imposed is 18 years. This represents an increase of 6 years in the average sentence. This does not account for additional applicable variables, such as suspended sentences, consecutive or concurrent sentences, diminution credits, parole, sentences for more serious offenses imposed on individuals in this cohort, and an increase in the number of individuals convicted of these crimes each year. Excluding those variables, the fiscal impact of this incarceration penalty will not be felt until fiscal 2031 (based on the average sentence) for the felony population. Due to a lack of information regarding the average sentence for the misdemeanor population, the timing of any impact on incarceration expenditures for the misdemeanor cohort is unknown.

The bill also alters the definition of “crime of violence” by substituting use of a firearm in the commission of a crime of violence or felony for use of a handgun in the commission of a crime of violence or felony. DPSCS advises that while 271 inmates received first-time sentences under § 4-204 of the Criminal Law Article (use of a firearm in the commission of a crime of violence or felony) and 5 inmates were sentenced for this crime as a subsequent offense during fiscal 2017, the department does not have information on how many inmates were sentenced for use of a handgun in the commission of a crime of violence or felony. The definition of “firearm” under § 4-204 includes a handgun. Thus, the number of individuals subject to increased penalties, diminished diminution credits, and reduced parole eligibility for a conviction of a crime of violence as a result of the bill is unknown at this time.

The bill specifies that an individual convicted for the second time of a crime of violence is not eligible for parole. The Maryland Parole Commission (MPC) advises that the decision to grant parole is based on a variety of factors, and that while it is not unheard of for a person convicted for the second time of a crime of violence to receive parole, it is unlikely (5% to 10% based on anecdotal recollections). According to MPC, removing eligibility for parole from this population (usually after serving 50% of the sentence) results in an inmate having to wait for release on mandatory supervision via application of diminution credits (usually after having served approximately 75% of the sentence). Thus, this estimate assumes that this portion of the bill does not significantly affect State finances.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,800 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced inmates and for (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) inmates who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

This estimate assumes that the funding provisions in the bill do not materially affect the Pretrial Release Services Program (PRSP) in Baltimore City, which is operated by DPSCS. While grants from the Tyrone Ray Violence Intervention and Prevention Fund may be used for pretrial services, the bill's provisions appear to indicate that local governments and nonprofit organizations are the types of eligible grant recipients. Since the State, not a local government, operates pretrial services in Baltimore City, this estimate assumes that PRSP is not eligible for a grant. PRSP advises that it occasionally refers pretrial defendants to nonprofit organizations for services. However, PRSP does not anticipate a material effect on the Baltimore City pretrial population should any of those organizations receive grant funding under the bill.

Procedural Components of the Bill

The procedural components of the bill can be addressed with existing budgeted resources. With respect to the bill's provisions expanding the State's right to appeal in specified circumstances, the Office of the Public Defender (OPD) advises that the bill could dramatically increase OPD's appellate caseload by authorizing mid-trial appeals by the State when the judge excludes any evidence the State wishes to offer. OPD did not provide any statistics on current cases to which the bill might apply or any other persuasive justification for the assertion that OPD caseloads are likely to dramatically increase under the bill.

DLS advises that while this portion of the bill may increase the number of appeals and result in some case delays, these mid-trial procedures are a typical part of the trial process and judicial-related operations. Barring evidence of an increase in caseloads that would

justify the hiring of additional staff, the bill is not expected to materially affect State finances. According to OPD's 2017 Annual Report, District Court caseloads ranged from 630 to 728 cases per attorney, circuit court caseloads ranged from 140 to 191 cases per attorney, and Appellate Division caseloads were 30 cases per attorney.

The Judiciary advises that the impact of this portion of the bill on caseloads is indeterminate because of uncertainty on the number of appeals that will be filed. However, the Judiciary also advises that it does not anticipate numbers that would have a significant fiscal or operational impact on the trial courts.

Local Fiscal Effect: Local revenues and expenditures increase significantly from grants to local governments from the Tyrone Ray Violence Intervention and Prevention Fund and corresponding expenditures for approved initiatives and matching funds. In addition to any grants Baltimore City may receive from the new special fund, Baltimore City revenues and expenditures increase by \$4,485,000 annually from fiscal 2020 through 2023 due to the bill's mandated appropriations for the miscellaneous grant programs established by the bill, as follows:

- \$3.6 million annually for the Safe Streets Initiative;
- \$425,000 annually to be used as an operating grant for the Law Enforcement Assisted Diversion Program (LEAD), a pilot program that provides a way for public safety officials to work with behavioral health providers by diverting low-level drug offenders to treatment and support services, rather than imprisonment and prosecution;
- \$360,000 annually for the Office of the Baltimore City State's Attorney for the relocation of victims and witnesses of crime; and
- \$100,000 annually to be used to support strategic decision support centers in the Eastern and Western District of Baltimore City.

Local fine revenues increase, potentially significantly, due to more cases for possession of specified quantities of fentanyl being heard in the circuit courts, as well as higher maximum fines for the distribution of specified quantities of fentanyl.

Local incarceration expenditures decrease to the extent that grant funding for pretrial services under the bill allow local governments to provides less expensive alternatives to pretrial detention or reduce a county's overall pretrial detention rate. The extent to which this occurs solely due to a grant received under the bill cannot be reliably determined at this time. However, *for illustrative purposes only*, St. Mary's County, which has had a pretrial services program since 2015, advises that the per diem cost of monitoring a defendant through pretrial services is \$30, compared to a per diem detention cost of \$150.

Expenditures decrease minimally due to fewer people being sentenced to local incarceration facilities as a result of the bill's volume dealer provisions. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

The bill's procedural components are not expected to significantly affect local finances. For example, with respect to the U Nonimmigrant status certification provisions of the bill, Anne Arundel County notes that the timeframes established by the bill may necessitate the use of additional resources or overtime. Worcester County indicates that minimal training costs may be incurred. None of the other local jurisdictions that were asked to provide a fiscal estimate for this portion of the bill anticipated a significant impact.

Additional Comments: Although nonprofit organizations are not considered small businesses, the bill has a meaningful effect on nonprofit organizations that receive grant funding under the bill and are able to expand services as a result of the bill's provisions. In addition to the mandated appropriations for the LEAD Program in Baltimore City (\$425,000 annually for fiscal 2020 through 2023) and the Baltimore Chesapeake Bay Outward Bound School (\$300,000 annually for fiscal 2020 through 2023), nonprofit organizations are eligible for grants through the Safe Streets Initiative and the Tyrone Ray Violence Intervention and Prevention Fund.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Anne Arundel, Baltimore, Charles, Frederick, Garrett, Howard, Montgomery, Washington, and Worcester counties; cities of Frederick, Hagerstown, Havre de Grace, and Westminster; Town of Leonardtown; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Governor's Office of Crime Control and Prevention; Department of Legislative Services

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Appendix 1 – Penalties Under Current Law and Under the Bill

<i>§ 4-203 of the Criminal Law Article – Wearing, carrying, or transporting a handgun</i>		
	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First-time Offender – No previous convictions under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	<ul style="list-style-type: none"> • In General – Imprisonment for at least 30 days and up to 3 years and/or fine of \$250 to \$2,500 • On Public School Property – Imprisonment for at least 90 days and up to 3 years 	<ul style="list-style-type: none"> • No change
Subsequent Offender – One previous conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	<ul style="list-style-type: none"> • In General – Imprisonment for at least 1 year and up to 10 years • On Public School Property – Imprisonment for at least 3 years and up to 10 years • Court may not impose less than the applicable minimum sentence 	<ul style="list-style-type: none"> • In General – Imprisonment for at least 1 year and up to 15 years • On Public School Property – Imprisonment for at least 5 years and up to 15 years • Court may not impose less than the applicable minimum sentence
Subsequent Offender – More than one previous conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	<ul style="list-style-type: none"> • In General – Imprisonment for at least 3 years and up to 10 years • On Public School Property – Imprisonment for at least 5 years and up to 10 years • Deliberate Purpose of Injuring or Killing Another Person – Imprisonment for at least 5 years and up to 10 years • Court may not impose less than the applicable minimum sentence 	<ul style="list-style-type: none"> • In General – Imprisonment for at least 5 years and up to 15 years • On Public School Property – Imprisonment for at least 10 years and up to 15 years • Deliberate Purpose of Injuring or Killing Another Person – Imprisonment for at least 10 years and up to 15 years • Court may not impose less than the applicable minimum sentence

§ 4-204 of Criminal Law Article – Use of Firearm in Commission of a Felony or Crime of Violence¹

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for at least 5 years and up to 20 years • Court may not impose less than the 5-year minimum sentence. Five-year minimum sentence is nonparolable² 	<ul style="list-style-type: none"> • Felony • No change to penalty
Second or Subsequent Offense	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for at least 5 years and up to 20 years (same as first offense) • Court may not impose less than the 5-year minimum sentence • 5-year minimum sentence is nonparolable² • Sentence must be consecutive to any sentence imposed for the crime of violence or felony 	<ul style="list-style-type: none"> • Felony • Imprisonment for at least 10 years and up to 40 years • Court may not impose less than the 10-year minimum sentence. • First 5 years of the 10-year minimum sentence are nonsuspendable and nonparolable² • Sentence must be consecutive to any sentence imposed for the crime of violence or felony

**§ 5-621 of the Criminal Law Article – Possessing, Using, Wearing, Carrying, or Transporting a Firearm
During and in Relation to a Drug Trafficking Crime³**

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
First Offense	<ul style="list-style-type: none"> • Imprisonment for at least 5 years and up to 20 years • Mandatory minimum sentence is nonsuspendable and the total sentence is nonparolable² 	<ul style="list-style-type: none"> • No Change
Subsequent Offense	<ul style="list-style-type: none"> • Imprisonment for at least 10 years and up to 20 years • Mandatory minimum sentence is nonsuspendable and the total sentence is nonparolable^{2,6} • Sentence is consecutive to sentence for drug trafficking crime 	<ul style="list-style-type: none"> • Imprisonment for at least 10 years and up to 40 years • Mandatory minimum sentence is nonsuspendable and the total sentence is nonparolable^{2,6} • Sentence is consecutive to sentence for drug trafficking crime

§ 5-133 of the Public Safety Article – Prohibited Possession of a Firearm

The bill does not alter the penalties for this offense, but does expand the list of predicate crimes that subject a person to the mandatory minimum sentence listed below. Individuals with prior convictions for the additional predicate crimes are already disqualified from possessing a regulated firearm.

Additional predicate crimes under the bill: (1) possession, use, wearing, carrying, or transporting a firearm during and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article; and (2) possessing, owning, carrying, or transporting a firearm with a prior felony conviction under § 5-622 of the Criminal Law Article.

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
No Conviction for a predicate crime	<ul style="list-style-type: none"> • Misdemeanor • Imprisonment for up to 5 years and/or a \$10,000 maximum fine 	<ul style="list-style-type: none"> • No change
Previous Conviction for a predicate crime (contains exception based on time since sentence served)	<ul style="list-style-type: none"> • Felony • Imprisonment for at least 5 years and up to 15 years • Mandatory minimum sentence is nonsuspendable and nonparolable² 	<ul style="list-style-type: none"> • No change

§ 14-101 of the Criminal Law Article – “Crime of Violence”

- The bill expands the definition of a “crime of violence” by replacing use of a *handgun* in the commission of a crime of violence or felony with use of a *firearm* in the commission of a crime of violence or felony.⁴
- The bill specifies that a person convicted for a second time of a crime of violence committed on or after October 1, 2018, is not eligible for parole.

§ 5-612 of the Criminal Law Article – Volume Dealer

The bill does not alter penalties, but does add the following quantities of controlled dangerous substances to the existing prohibition against volume dealing:

- 5 grams or more of fentanyl or any structural variation of fentanyl that is scheduled by the U.S. Drug Enforcement Administration (DEA); and
- 28 grams or more of any mixture containing a detectable amount of fentanyl or any structural variation of fentanyl that is scheduled by DEA.

Enhanced penalty for volume dealing under current law and the bill (manufacturing, distributing, dispensing, or possessing):

- Nonsuspendable, nonparolable mandatory minimum sentence of five years imprisonment and up to \$100,000 fine.²

Obstruction of Justice – § 9-302 of the Criminal Law Article (inducing false testimony or avoidance of a subpoena); § 9-303 of the Criminal Law Article (retaliation for testimony); and § 9-305 of the Criminal Law Article (intimidating or corrupting a juror, witness, or officer of the court)

	<u>Penalty Under Current Law</u>	<u>Penalty Under the Bill</u>
	<ul style="list-style-type: none"> • Misdemeanor Violation: Imprisonment for up to 5 years and/or \$5,000 maximum fine • Felonious Violation: Imprisonment for up to 20 years⁵ 	<ul style="list-style-type: none"> • Misdemeanor Violation: Imprisonment for up to 10 years and/or \$10,000 maximum fine • Felonious Violation: Imprisonment for up to 30 years⁵

¹Uses definition of a “crime of violence” under § 5-101 of the Public Safety Article.

²Contains exception for parole under § 4-305 of the Correctional Service Article (parole eligibility for inmates at Patuxent Institution).

³Penalties for this offense are in addition to penalties for the drug trafficking crime.

⁴ The bill does not contain a definition of “firearm” for purposes of § 14-101 of the Criminal Law Article or a cross-reference to a statutory provision for the use of a firearm in the commission of a crime of violence. This analysis assumes that the applicable offense is § 4-204 of the Criminal Law Article and the applicable definition of “firearm” is the definition used in § 4-204.

⁵Felonious violation applies if violation relates to a felonious violation Title 5 of the Criminal Law Article (controlled dangerous substances) or the commission/conspiracy/solicitation of a crime of violence under § 14-101 of the Criminal Law Article.

⁶Mandatory minimum sentence must be doubled if a firearm silencer or specified types of firearms are used.