

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 659
Judiciary

(Delegate Stein, *et al.*)

Firearm Safety - Storage Requirements and Youth Suicide Prevention (Jaelynn's Law)

This bill makes several alterations to the statutory prohibition on access to a firearm by an unsupervised child and applicable penalties. In addition, the bill requires the Deputy Secretary for Public Health Services to develop a youth suicide prevention and firearm safe storage guide by January 1, 2023. The Deputy Secretary must establish a stakeholder advisory committee to make recommendations regarding the development of the guide. By December 31, 2023, 2024, and 2025, the Deputy Secretary must report to the General Assembly on the implementation of the bill's provisions, as specified.

Fiscal Summary

State Effect: General fund expenditures increase by \$50,000 in FY 2023 only to develop the required guide and lead the stakeholder advisory committee. In addition, general fund revenues and expenditures increase minimally due to the bill's expanded prohibition and penalty provisions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's expanded prohibition and penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary:

Access to a Firearm: The bill modifies and expands the existing prohibition on access to a firearm by an unsupervised *child* (defined as an individual younger than age 16) by establishing that a person may not store or leave a firearm (loaded or unloaded) in a location where the person knew or reasonably should have known that an unsupervised *minor* (defined in existing statute as an individual younger than age 18) is likely to gain access to the firearm. A violator is guilty of a misdemeanor, punishable by imprisonment for up to 90 days and/or a maximum fine of \$1,000.

The bill prohibits a person from storing or leaving a firearm in a location where the person knew or should have known that an unsupervised minor is likely to gain access to the firearm and an unsupervised minor does gain access to the firearm. A violator is guilty of a misdemeanor, punishable by imprisonment for up to two years and/or a \$2,500 maximum fine.

The bill also prohibits a person from storing or leaving a firearm in a location where the person knew or reasonably should have known that an unsupervised minor is likely to gain access to the firearm, an unsupervised minor does gain access to the firearm, and the minor's access to the firearm results in harm to the minor or to another person. A violator is guilty of a misdemeanor, punishable by imprisonment for up to three years and/or a \$5,000 maximum fine.

The bill alters the existing statutory exceptions to reflect application of the statute to a minor (rather than a child). The bill also establishes that the prohibitions do not apply if:

- the person who stores or leaves the firearm stores or leaves (1) the firearm unloaded; (2) any ammunition that the person owns or controls that is suitable for use in the firearm in a secure location where a minor is not likely to gain access to the ammunition; and (3) the firearm secured in a locked container that is equipped with a tamper-resistant lock or rendered inoperable to anyone other than an authorized adult; or
- for a rifle or shotgun, (1) in addition to the existing requirement to have a certificate of firearm and hunter safety issued under applicable provisions of the Natural Resources Article, the minor has been given express permission by the minor's parent or guardian to access the rifle or shotgun for the purpose of engaging in a lawful activity.

Youth Suicide Prevention and Firearm Safe Storage Guide: The guide must (1) provide a description of specified firearm and ammunition requirements under the bill; (2) identify the risks associated with unsafe firearm storage for minors, including suicide, death, or serious bodily injury from accidental discharge, and shooting incidents involving minors; and (3) incorporate best practices for firearm and ammunition safe storage. The Maryland Department of Health (MDH) must post the guide on its website and make an electronic version of the guide available to families, health and social services providers, and any other entities with an interest in youth suicide prevention or firearms storage, including several specified entities.

Current Law: A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child (defined as an individual younger than age 16) would gain access to the firearm. A violator is guilty of a misdemeanor and subject to a maximum fine of \$1,000.

The prohibition does not apply if:

- the child's access to a firearm is supervised by an individual at least age 18;
- the child's access to a firearm was obtained as a result of an unlawful entry;
- the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or
- the child has a certificate of firearm and hunter safety issued under applicable provisions of the Natural Resources Article.

A violation may not (1) be considered evidence of negligence; (2) be considered evidence of contributory negligence; (3) limit liability of a party or an insurer; or (4) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition. A party, witness, or lawyer may not refer to a violation during a trial of a civil action that involves property damage, personal injury, or death.

State Revenues: General fund revenues increase minimally from monetary penalties imposed in the District Court for violations of the bill's expanded prohibitions.

The Administrative Office of the Courts advises that 53 violations were filed in the District Court during fiscal 2021 for an offense relating to providing access to firearms by a child. The Division of Parole and Probation opened one case in fiscal 2021 for the same offense. Fiscal 2021 was impacted by the COVID-19 pandemic; therefore, the numbers may not represent a typical year of data.

State Expenditures: MDH advises that Public Health Services falls within the Prevention and Health Promotion Administration (PHPA) and that PHPA does not handle firearm

safety or suicide prevention. Thus, additional resources are needed to produce the required guide. In addition, the short timeframe (three months) within which the guide must be developed necessitates hiring an outside consultant. Therefore, general fund expenditures increase by \$50,000 in fiscal 2023 only for MDH to contract with an outside entity to develop the guide and lead the stakeholder advisory committee. MDH can handle the reporting requirements with existing resources.

In addition, general fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to State correctional facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this expanded crime is expected to be minimal.

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 \$4,700 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.

Local Revenues: Local revenues increase minimally from monetary penalties imposed in the circuit courts for violations of the bill's expanded prohibitions.

Local Expenditures: Expenditures increase minimally as a result of incarceration penalties imposed for violations of the bill's expanded prohibitions. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for 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. Per diem operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 676 (Senators Smith and Beidle) - Judicial Proceedings.

Information Source(s): Maryland Association of County Health Officers; Anne Arundel, Baltimore, Charles, Frederick, Montgomery, and Somerset counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Maryland State Department of Education; Maryland Department of Health; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Baltimore City Public Schools; Prince George's County Public Schools; Department of Legislative Services

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