

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 858

(Senator Smith)

Judicial Proceedings

Judiciary

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

This bill modifies and expands (1) an existing prohibition relating to a child’s access to firearms and (2) an existing prohibition relating to possession of a regulated firearm. 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, 2024. 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 other interested entities, as specified. MDH must provide grants to local school systems, local health departments, and nonprofit agencies to support the education of families on the safe storage practices recommended in the guide.

**Fiscal Summary**

**State Effect:** General fund expenditures for MDH increase by \$50,000 in FY 2024 only, as discussed below. Minimal increase in general fund revenues and potential minimal increase in general fund expenditures due to the bill’s expanded application of existing penalties. Grant-related expenditures for MDH cannot be reliably estimated, as discussed below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
GF Revenue	-	-	-	-	-
GF Expenditure	\$50,000	\$0	\$0	\$0	\$0
Net Effect	(\$50,000)	\$0	\$0	\$0	\$0

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

**Local Effect:** Potential minimal increase in local revenues and expenditures due to the bill’s expanded application of existing penalties. Local revenues and expenditures increase if MDH grants are available, as discussed below. Affected local government agencies can likely distribute the guide using existing resources.

**Small Business Effect:** Minimal.

## Analysis

### Bill Summary:

*Access to a Firearm (§ 4-104 of the Criminal Law Article):* 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 loaded firearm in a location where the person knew or should have known that an unsupervised *minor* (defined in existing statute as an individual younger than age 18) has access to the firearm. A violator is guilty of a misdemeanor, punishable by the existing penalty of a maximum fine of \$1,000. The bill alters the existing statutory exceptions to reflect application of the statute to a minor (rather than a child).

*Youth Suicide Prevention and Firearm Safe Storage Guide:* The Deputy Secretary for Public Health Services must establish a stakeholder advisory committee to make recommendations regarding the development of a youth suicide prevention and firearm safe storage guide.

On or before January 1, 2024, the Deputy Secretary of Public Health Services must develop a guide that (1) provides a description of the firearm and ammunition requirements for safely storing firearms under State law; (2) identifies 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) incorporates best practices for firearm and ammunition safe storage. MDH must (1) post the guide on its website; (2) 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 and specified instructors; and (3) provide grants to local school systems, local health departments, and nonprofit agencies to support the education of families on the safe storage practices recommended in the guide.

*Required Reports:* By December 31, 2024, 2025, and 2026, the Deputy Secretary for Public Health Services must report to the General Assembly on the implementation of the bill's provisions, as specified.

*Prohibition on Possession – Regulated Firearms:* A person may not possess a regulated firearm if the person (1) has been convicted on or after October 1, 2023, of a second or subsequent violation of § 4-104 of the Criminal Law Article (access to a firearm by a minor under the bill) or (2) has been convicted on or after October 1, 2023, of a violation of § 4-104 if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person. In addition, a person who has been convicted on or after October 1, 2023, of a violation of § 4-104 may not possess a regulated firearm for five years following the date of the conviction.

## **Current Law:**

*Access to a Firearm:* 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.

*Prohibitions on Possession – Regulated Firearms:* Generally, a person is prohibited from possessing a regulated firearm 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 if the person was previously convicted of (1) a crime of violence; (2) a violation of specified controlled dangerous substances laws; 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.

Prohibited possession of a regulated firearm is a misdemeanor punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

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

**State Expenditures:**

*Maryland Department of Health*

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 youth suicide prevention and firearm safety guide. In addition, the short timeframe within which the guide must be developed necessitates hiring an outside consultant. Accordingly, general fund expenditures likely increase by \$50,000 in fiscal 2024 only for MDH to contract with an outside entity to develop the required guide and lead the stakeholder advisory committee. MDH can likely handle the reporting requirements with existing resources.

Although the bill requires MDH to provide grants to local school systems, local health departments, and nonprofit agencies to support the education of families on the safe storage practices recommended by the guide, the bill does not identify a funding source and no funding is specifically provided for this purpose in the fiscal 2024 budget as passed by the General Assembly. If grant funding is made available and MDH has to administer a grant program, general fund expenditures for MDH increase further. The extent to which this occurs cannot be reliably estimated at this time.

## *Department of Public Safety and Correctional Services*

General fund expenditures may increase minimally as a result of the bill's expanded application of an existing incarceration penalty 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 under the bill's provisions 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 \$4,970 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 may increase minimally from monetary penalties imposed in the circuit courts. Local revenues increase to the extent MDH provides grant funding and local school systems and local health departments are awarded grants under the bill.

**Local Expenditures:** Expenditures may 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.

Local expenditures increase to the extent MDH provides grant funding and local jurisdictions are awarded grants under the bill.

**Additional Comments:** The Administrative Office of the Courts advises that during fiscal 2022, there were 69 violations and 1 guilty disposition in the District Court and 45 violations and 4 guilty dispositions in the circuit courts under § 4-104 of the Criminal Law Article. The Division of Parole and Probation opened three cases in fiscal 2022 for the same offense.

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### **Additional Information**

**Prior Introductions:** Similar legislation has been introduced within the last three years. See HB 659 and SB 676 of 2022.

**Designated Cross File:** HB 307 (Delegate Bartlett, *et al.*) - Judiciary.

**Information Source(s):** Maryland Association of County Health Officers; Baltimore City; Kent, Montgomery, Washington, and Worcester counties; Towns of Bel Air and Leonardtown; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Maryland State Department of Education; Department of Budget and Management; Department of Juvenile Services; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Baltimore City Public Schools; Montgomery County Public Schools; Department of Legislative Services

**Fiscal Note History:** First Reader - February 14, 2023  
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Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510