

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 849

(Delegate Anderson, *et al.*)

(By Request – Baltimore City Administration)

Judiciary

Public Safety - Restrictions on Possession of Firearms - Conviction of
Disqualifying Crime and Protective Order Respondent

This bill provides that a person may not possess *any* firearm if the person has been convicted of a disqualifying crime or is a respondent against whom a current final protective order has been entered.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

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

Small Business Effect: None.

Analysis

Current Law: In a domestic violence proceeding, if a judge finds by clear and convincing evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse, including an order for the respondent to surrender any firearm in the respondent's possession to law enforcement authorities for the duration of the protective order.

All relief granted in a final protective order is effective for the period stated in the order, up to a maximum of 12 months. A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those in the final protective order. A protective order may be modified or rescinded during the term of the order after giving notice to all those eligible for relief and respondents and after a hearing. For good cause shown, a judge may extend the term of the protective order for six months beyond the period specified in the final protective order after giving notice to all affected parties and after a hearing.

If a District Court grants or denies a petition for a protective order, a respondent, an eligible person, or a petitioner may appeal to the circuit court in the county where the District Court is located. If an appeal is filed, the District Court judgment remains in effect until superseded by a judgment of the circuit court. Modification and enforcement of the District Court order must be by the District Court unless the circuit court orders otherwise.

Title 5 of the Public Safety Article generally and specifically regulates firearms and handguns in the State. Among other restrictions, under Title 5, a person may not possess a *regulated* firearm in the State if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses under Title 5 of the Criminal Law Article. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Under a separate prohibition relating to knowing participation of a violation of this subtitle, a violator is subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation of this prohibition is also a separate offense.

Background: The following table shows judicial activity in fiscal 2006 (the latest available) with regard to protective orders.

<u>Jurisdiction</u>	<u>Hearings</u>	<u>Interim Orders Granted</u>	<u>Temporary Orders Granted</u>	<u>Final Orders Granted</u>
Circuit Court	7,299	N/A	2,083	1,380
District Court	52,042	9,429	14,867	7,654

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

State Expenditures: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of

Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of these proposed crimes is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,600 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$526 per month. Excluding medical care, the average variable costs total \$148 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 DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2009 are estimated to range from \$19 to \$71 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

Local Revenues: Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$40 to \$129 per inmate in fiscal 2009.

Additional Information

Prior Introductions: None.

Cross File: SB 586 (Senators Gladden and McFadden) (By Request – Baltimore City Administration) – Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Baltimore City, Department of Public Safety and Correctional Services, Department of Legislative Services

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mll/jr

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