

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 1066  
Judiciary

(Delegate K. Kelly, *et al.*)

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Criminal Law - Robbery and Burglary - Pharmacies

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This bill establishes two additional offenses pertaining to the robbery of a pharmacy and applies the enhanced penalty for second degree burglary to the breaking and entering of a pharmacy.

The bill takes effect June 1, 2012.

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Fiscal Summary

**State Effect:** Minimal increase in general fund expenditures due to the bill's penalty provisions. Revenues are not affected.

**Local Effect:** Minimal increase in revenues from fines imposed in the circuit courts for second degree burglary of a pharmacy. Expenditures are not affected.

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill prohibits a person from taking a "controlled dangerous substance" from another individual in a pharmacy by force or violence, or by putting that individual in fear through intimidation or by threat of force or violence. A violator is guilty of a felony, punishable by imprisonment for up to 25 years. The bill also prohibits a person from employing or displaying a dangerous weapon during the commission of a robbery of a pharmacy. Violators are guilty of a felony and subject to imprisonment for up to 35 years. A sentence imposed for these offenses may be separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation.

The bill expands the application of the enhanced penalty for second degree burglary by prohibiting a person from breaking and entering a pharmacy with the intent to steal, take, or carry away a “controlled dangerous substance.” Violators are subject to imprisonment for up to 20 years and/or a maximum fine of \$10,000.

“Controlled dangerous substance” means a drug, substance, or precursor listed in Schedule II through Schedule V.

**Current Law:** A person is prohibited from committing or attempting to commit a robbery. Violators are guilty of a felony and are subject to imprisonment for up to 15 years. Under the common law, a robbery is the felonious taking and carrying away of the personal property of another from his person by the use of violence or by putting him/her in fear.

A person who commits or attempts to commit a robbery with a dangerous weapon or by displaying a written instrument claiming that the person has possession of a dangerous weapon is guilty of a felony and is subject to imprisonment for up to 20 years.

Under § 4-101 of the Criminal Law Article (prohibition on wearing or carrying a dangerous weapon), a “weapon” includes a razor, a nunchaku, a dirk knife, bowie knife, switchblade knife, star knife, sandclub, and metal knuckles. “Weapon” does not include a handgun or penknife without a switchblade.

Under the prohibitions against second degree burglary, a person may not break and enter the storehouse of another with the intent to commit theft, a crime of violence, or arson in the second degree. A violator is guilty of second-degree burglary, a felony punishable by up to 15 years imprisonment. A person who breaks and enters the storehouse of another with the intent to steal, take, or carry away a firearm is subject to an enhanced penalty of imprisonment for up to 20 years and/or a maximum fine of \$10,000.

**Background:** During fiscal 2011, the Division of Correction conducted intake on: 363 individuals for unarmed robbery (with an average sentence of 63 months), 484 individuals for robbery with a deadly weapon (with an average sentence of 113 months), and 178 individuals for second degree burglary (with an average sentence of 76 months).

**State Expenditures:** General fund expenditures increase minimally as a result of the bill’s incarceration penalties due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people convicted of this proposed crime 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 \$2,900 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 variable medical care and variable operating costs) is about \$385 per month. Excluding all medical care, the average variable costs total \$170 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem 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 Division of Correction but are confined in 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 DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

**Local Revenues:** Revenues increase minimally from fines imposed in circuit court cases for second degree burglary of a pharmacy.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 916 (Senator Forehand, *et al.*) - Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Office of the Public Defender, Commission on Criminal Sentencing Policy, Department of Legislative Services

**Fiscal Note History:** First Reader - March 4, 2012  
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