

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1807  
Judiciary

(Delegates Sydnor and Carozza)

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Criminal Law - Threat of Mass Violence and Deadly Weapons on Public School  
Property

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This bill makes several alterations to the State's prohibitions on (1) making a threat of mass violence; (2) carrying or possessing a firearm, knife, or deadly weapon on school property; and (3) wearing, carrying, or transporting a handgun.

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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.

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Analysis

**Bill Summary:**

*Threat of Mass Violence*

The bill prohibits a person from knowingly threatening to commit or threatening to cause to be committed a crime of violence, as defined in § 14-101 of the Criminal Law Article, that would place five or more people at substantial risk of death or serious physical injury, as defined under § 3-201 of the Criminal Law Article, if the threat were carried out.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to five years and/or a \$10,000 maximum fine.

The bill also prohibits a person from knowingly threatening to commit or threatening to cause to be committed a crime of violence that would place five or more minors at substantial risk of death or serious physical injury if the threat were carried out. Violators are guilty of a misdemeanor, punishable by imprisonment for up to 10 years and/or a \$10,000 maximum fine.

#### *Deadly Weapon/Handguns on School Property*

The bill alters the prohibition on carrying or possessing a firearm, knife, or deadly weapon on public school property under § 4-102 of the Criminal Law Article by specifying that a person who is convicted of carrying or possessing a firearm in violation of § 4-102 is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 10 years and/or a \$1,000 fine. The bill also repeals provisions requiring a person who carries or possesses a handgun on public school property to be sentenced under § 4-203 of the Criminal Law Article.

A person who is convicted under § 4-102 for an act involving a knife or deadly weapon continues to be guilty of a misdemeanor and is subject to the existing statutory maximum penalties of imprisonment for three years and/or a \$1,000 fine.

#### *Wearing, Carrying, or Transporting a Handgun*

The bill increases the maximum incarceration penalty for a first-time offender under § 4-203 from three years to five years. The bill also repeals references to wearing, carrying, or transporting a handgun on public school property from § 4-203 of the Criminal Law Article (and the penalties pertaining to a violation of those provisions), as the offense is addressed under § 4-102, as noted above.

### **Current Law:**

#### *Threat of Mass Violence*

A person may not knowingly threaten to commit a crime of violence or threaten to cause such a crime to be committed, that would place others at a substantial risk of death or serious physical injury if as a result of the threat, regardless of whether the threat is carried out, five or more people are (1) placed in reasonable fear that the crime will be committed; (2) evacuated from a dwelling, storehouse, or public place; (3) required to move to a designated area within a dwelling, storehouse, or public place; or (4) required to remain in

a designated safe area within a dwelling, storehouse, or public place. The prohibition applies to a threat made by oral or written communication or electronic mail.

Violators are guilty of a misdemeanor, punishable by imprisonment for up to 10 years and/or a maximum fine of \$10,000. In addition to these penalties, a court must order a person convicted of this offense to reimburse the appropriate unit of government or other person for expenses and losses incurred in responding to the unlawful threat unless the court states on the record why reimbursement would be inappropriate. Violators may be indicted, prosecuted, tried, and convicted in any county where (1) the threat was received; (2) the threat was made; or (3) the consequences of the threat occurred.

### *Deadly Weapons on School Property*

A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years and/or a fine of \$1,000. A person who is convicted of carrying or possessing a handgun in violation of this prohibition must be sentenced under the misdemeanor penalty provisions applicable to illegally wearing, carrying, or transporting a handgun. (See chart below.)

This prohibition does not apply to specified individuals, including law enforcement officers who meet certain criteria and a person who is hired by a county board of education specifically for the purpose of guarding public school property.

### *Wearing, Carrying, or Transporting a Handgun*

With specified exceptions, a person may not (1) wear, carry, or transport a handgun, whether concealed or open, on or about the person; (2) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State; (3) violate items (1) or (2) listed above while on public school property in the State; or (4) violate items (1) or (2) listed above with the deliberate purpose of injuring or killing another person. There is a rebuttable presumption that a person who transports a handgun does so knowingly. A violator is guilty of a misdemeanor and subject to the penalties listed below. The subsequent offender provisions apply to previous convictions under § 4-203 (wearing, carrying, or transporting a handgun), § 4-204 (use of handgun or antique firearm in commission of crime), § 4-101 (dangerous weapons), and § 4-102 (deadly weapons on school property) of the Criminal Law Article, as shown below.

<p>First-time Offender – No previous convictions under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article</p>	<p>In General – Imprisonment for at least 30 days and up to 3 years and/or fine of \$250 to \$2,500</p> <p>Offense on Public School Property – Imprisonment for at least 90 days</p>
<p>Subsequent Offender – One previous conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article</p>	<p>In General – Imprisonment for at least 1 year and up to 10 years</p> <p>Offense on Public School Property – Imprisonment for at least 3 years and up to 10 years</p> <p>Court may not impose less than the applicable minimum sentence</p>
<p>Subsequent Offender – More than one previous conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article</p>	<p>In General – Imprisonment for at least 3 years and up to 10 years</p> <p>Offense on Public School Property – Imprisonment for at least 5 years and up to 10 years</p> <p>Offense with Deliberate Purpose of Injuring or Killing Another Person – Imprisonment for at least 5 years and up to 10 years</p> <p>Court may not impose less than the applicable minimum sentence</p>

Section 4-305 of the Correctional Services Article contains general provisions about the availability of parole for an inmate at the Patuxent Institution.

**Background:** On February 14, 2018, a 19-year old gunman, armed with an AR-15 rifle, entered his former high school in Parkland, Florida and proceeded to shoot inside the school, killing 17 people and injuring multiple students and school personnel. The shooting has sparked a national debate on gun violence, access to guns, and school safety.

**Exhibit 1** contains information on the number of violations filed in the District Court and the circuit courts for the offenses affected by the bill during fiscal 2017. A violation is a charge filed with the court. It is not a conviction, and one person may be associated with more than one violation.

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**Exhibit 1**  
**Violations of §§ 3-1001, 4-102, and 4-203 of the Criminal Law Article**  
**Fiscal 2017**

<u>Offense</u>	<u>District Court</u> <u>Violations</u>	<u>Circuit Court</u> <u>Violations</u>
Criminal Law Article, § 3-1001 (Threat of Mass Violence)	21	17
Criminal Law Article, § 4-102 (Dangerous Weapon on School Property)	66	48
Criminal Law Article, § 4-203* (Wearing, Carrying, or Transporting a Handgun)	5,261	4,079

\*Does not specify whether act occurred on public school property.

Source: Maryland Judiciary

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According to the Judiciary, there were 63 guilty dispositions in the District Court and 538 guilty dispositions in the circuit courts under § 4-203 of the Criminal Law Article during fiscal 2017. Information on sentences (including suspended time) for this population is not readily available at this time.

**State Revenues:** General fund revenues increase minimally as a result of the bill's monetary penalties from cases heard in the District Court. The bill expands application of the existing maximum monetary penalty of \$10,000 for making a threat of mass violence. It also subjects all handgun violations (not just subsequent violations) to a \$1,000 monetary penalty.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to State correctional facilities or people being committed for longer periods of time and increased payments to counties for reimbursement of inmate costs.

This estimate assumes that:

- despite the bill's broad application of the prohibition on making a threat of mass violence, the bill does not result in a dramatic increase in charges and prosecutions;
- some of the cases involving threats of mass violence are likely to be handled through the juvenile system, rather than the adult system;
- given the minimal number of violations filed under § 4-102 (weapons on school property), a small number of the violations under § 4-203 (wearing, carrying, or transporting a handgun) apply to incidents on public school property;
- expansion of the application of § 4-102 (weapons on school property) to include firearms does not result in a dramatic increase in charges and cases; and
- while the bill increases the maximum incarceration penalty for a first-time violation of § 4-203 (wearing, carrying, or transporting a handgun) from three years to five years, the total amount of time individuals in this population are incarcerated does not increase significantly as a result of the bill.

This estimate does not account for the application of the bill's provisions to any school-sanctioned recreational activities that may involve the use of a firearm that is not a handgun (*e.g.*, hunting clubs).

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.

It is assumed that any increase in caseload for the Judiciary and the Office of the Public Defender can be handled with existing budgeted resources.

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

**Local Expenditures:** Expenditures increase minimally to the extent the bill increases the overall time individuals spend in local facilities. 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.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** SB 1250 (Senator Lee) - Judicial Proceedings.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Maryland State Commission on Criminal Sentencing Policy; Department of State Police; Office of the Public Defender; Maryland State's Attorneys' Association; City of Frederick; Frederick County; NBC News; Department of Legislative Services

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