

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 889

(Senator McCray)

Judicial Proceedings

Criminal Law – Wearing, Carrying, or Transporting a Handgun – Penalty

This bill increases the maximum incarceration penalty from three years to five years that may be imposed on a violator of the prohibition against wearing, carrying, or transporting a handgun when the person has no prior convictions under §§ 4-203 (wearing, carrying, or transporting a handgun), 4-204 (use of a handgun or antique firearm in the commission of a crime), 4-101 (wearing or carrying dangerous weapons), or 4-102 (deadly weapons on school property) of the Criminal Law Article.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill’s penalty provision. Revenues are not materially affected.

Local Effect: Minimal increase in local expenditures due to the bill’s penalty provision. Local revenues are not materially affected.

Small Business Effect: None.

Analysis

Current Law: With specified exceptions, including possession of a handgun permit, 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; (4) violate items (1) or (2) listed above with the deliberate purpose of injuring or killing another person; or (5) violate items (1) or (2) listed above with a handgun loaded with ammunition. 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 a handgun or antique firearm in the commission of a crime), § 4-101 (dangerous weapons), and § 4-102 (deadly weapons on school property) of the Criminal Law Article, as shown in **Exhibit 1**.

Exhibit 1

Penalties for Specified Handgun Violations

First-time Offender – No prior convictions under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	In General – Imprisonment for at least 30 days and up to 3 years and/or fine of \$250 to \$2,500 Offense on Public School Property – Imprisonment for at least 90 days
Subsequent Offender – One prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	In General – Imprisonment for at least 1 year and up to 10 years Offense on Public School Property – Imprisonment for at least 3 years and up to 10 years Court may not impose less than the applicable minimum sentence. Offense with Handgun Loaded with Ammunition – With required notice, court may not suspend any part of or impose less than the applicable mandatory minimum sentence. Person is not eligible for parole during mandatory minimum sentence.*
Subsequent Offender – More than one prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	In General – Imprisonment for at least 3 years and up to 10 years Offense on Public School Property – Imprisonment for at least 5 years and up to 10 years Offense with Deliberate Purpose of Injuring or Killing Another Person – Imprisonment for at least 5 years and up to 10 years Court may not impose less than the applicable minimum sentence Offense with Handgun Loaded with Ammunition – With required notice, court may not suspend any part of or impose less than the applicable mandatory minimum sentence. Person is not eligible for parole during mandatory minimum sentence.*

*Contains exception for § 4-305 of the Correctional Services Article (parole for an inmate at the Patuxent Institution).

Source: Department of Legislative Services

State Expenditures: General fund expenditures increase minimally as a result of the bill's incarceration penalty due to people being committed to State correctional facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. The number of people subject to lengthier sentences under the bill is assumed to be minimal.

The Division of Corrections (DOC) conducted intake on 93 individuals for the applicable violations of § 4-203 of the Criminal Law Article during fiscal 2022; the average length of sentence for this group was 2.34 years. However, DOC did not indicate how many of these individuals were first-time offenders who would be subject to lengthier sentences under the bill.

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 Expenditures: Expenditures 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 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Additional Comments: The Judiciary advises that there were 304 guilty dispositions (convictions) in the District Court for violations of § 4-203 of the Criminal Law Article during fiscal 2022. Information is not readily available on how many of these convictions were for defendants who were first-time offenders. The Maryland State Commission on Criminal Sentencing Policy advises that, for fiscal 2022, it received information for 881 individuals sentenced in the circuit courts to 900 total counts of unlawful wearing, carrying, or transporting a handgun as a first offense under § 4-203 of the Criminal Law

Article. Information is not readily available on how many of these individuals were also sentenced for more serious offenses.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 481 (Delegate Conaway, *et al.*) - Judiciary.

Information Source(s): Baltimore, Charles, and Garrett counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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