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Office

H.B. 383
(1_134_1591-3)
134th General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 383's Bill Analysis](#)

Version: In House Government Oversight

Primary Sponsor: Rep. Koehler

Local Impact Statement Procedure Required: No

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Highlights

- For each offender affected by the bill's increased penalties, the Department of Rehabilitation and Correction could incur additional estimated costs of up to between \$95,948 and \$238,276 to incarcerate that offender for approximately three to seven more years.
- The bill is unlikely to generate any discernible ongoing costs for county criminal justice systems, as no new felony cases will be generated to prosecute and adjudicate.

Detailed Analysis

The bill increases the penalties for the offense of "having weapons while under disability" from a third degree felony to a first or second degree felony when committed under specified circumstances. The circumstances include a prior conviction, or adjudication as a delinquent child, for a felony offense of violence or the offense of "having weapons while under disability." The bill also states that if the disability upon which the violation is based is any of the specified firearms disabilities other than the prior conviction or adjudication disability described above (offense of violence) or the drug dependent, in danger of drug dependence, or chronic alcoholic disability, the offense may still be charged as a third degree felony and there is no presumption for or against a prison term.

The Felony Sentencing Law for felonies of the first, second, and third degree, which is generally unchanged by the bill, is summarized in the table below.

Table 1. Felony Sentences and Fines under Current Law

Offense Level*	Fine	Term of Incarceration
F-1	Up to \$20,000	Indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a first degree felony (3, 4, 5, 6, 7, 8, 9, 10, or 11 years), and a maximum term set by statute and based on the minimum selected
F-2	Up to \$15,000	Indefinite prison term consisting of a minimum term selected by the sentencing judge from the range of terms authorized for a second degree felony (2, 3, 4, 5, 6, 7, or 8 years), and a maximum term set by statute and based on the minimum selected
F-3**	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term

*"F" denotes a felony.

**Under the bill, certain violations of "having weapons under disability" may be exempted from the presumption of a prison term.

Department of Rehabilitation and Correction

The average time served for a third degree felony offense of "having weapons while under disability" was 1.67 years as last reported by the Department of Rehabilitation and Correction (DRC) for CY 2016, which was less than the average time served generally for a third degree felony (2.33 years).¹ The average time served for first and second degree felonies was 8.40 years and 4.38 years, respectively. This data is reflective of offenders whose most serious offense for which they were committed was "having weapons while under disability." A number of offenders may have been committed for more serious offenses, for which "having weapons while under disability" may have been one of possible lesser offenses. The extent to which the bill's penalty enhancements will impact adjudications and sentencing that involve multiple offenses is uncertain. As a result of the changes to certain presumptions for a term of prison, some offenders may not be sentenced to prison after the bill's effective date. The number of potential offenders in this sub-population is unknown, nor the likelihood that judges may forego these possible prison sentences in future cases.

For context, from CY 2017 through CY 2021, 4,157 offenders were sentenced to DRC for whom their primary offense was "having weapons while under disability," an average of 831 offenders per year (see table below). Under the bill, some number of these similarly situated offenders in the future may serve between 2.1 and 6.73 years more than they might otherwise under current law.

For FY 2021, DRC reported an average annual cost per inmate of \$35,405. This suggests that, for each offender affected by the bill's increased penalties, DRC could incur additional estimated costs of up to between \$95,948 and \$238,276 to incarcerate that offender for approximately three to seven more years. This estimate presumes that the time served data

¹ CY 2016 is the most recent year for which time served data is available from DRC.

reported in CY 2016 has remained, and will remain, stable in future years and that charging trends remain unchanged.

Table 2. Prison Commitments for Having Weapons While Under Disability as Most Serious Offense, Calendar Years 2017-2021		
Year	Total Commitments Most Serious Offense "Having Weapons While Under Disability"	Percent of Total Commitments
2021	908	6.64%
2020	600	5.37%
2019	884	5.24%
2018	895	5.09%
2017	870	4.67%

Source: DRC Commitment Reports

County criminal justice systems

The bill is unlikely to generate any discernible ongoing costs for county criminal justice systems, as no new felony cases will be generated that require prosecution and adjudication.

Synopsis of Fiscal Effect Changes

The substitute bill (I_134_1591-3) modifies some of the circumstances for which the "having weapons while under disability" penalty enhancements proposed in the As Introduced version of the bill apply. The anticipated fiscal effects remain unchanged.