

WEST_FAV_SB468

Uploaded by: Senator West, Senator West

Position: FAV

CHRIS WEST
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Judicial Proceedings Committee

Vice Chair, Baltimore County
Senate Delegation



THE SENATE OF MARYLAND
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February 13, 2020

Senate Judicial Proceedings Committee
The Honorable William C. Smith, Jr.
2 East Miller Senate Building
Annapolis, Maryland 21401-1991

RE: SB 468 – Criminal Procedure – Appeals – Unlawful Possession of a Firearm

Dear Chairman Smith and Members of the Committee:

I am pleased to introduce Senate Bill 468 which will allow the State to appeal the decisions of a criminal trial court in gun cases where evidence has been excluded, or where a decision has been made to return property to the defendant.

Currently in Maryland, the State may only appeal the decision of a trial court in a criminal case for very limited circumstances, not including any gun cases. There are many gun cases in which a motion to suppress evidence gathered through a car search or a pat down has been granted because of statements made by a defendant who is prohibited from possessing a firearm. It is important to note that these searches that result in the suppression of evidence are performed with consent, and are still resulting in this suppression. With this legislation, this loophole will no longer be exploited. In the midst of all the gun violence that is occurring, this bill is a much needed tool that we can enable States Attorneys to use to properly charge those who have unlawful possession of a firearm.

I would like to add that this bill has unilateral support through the law enforcement community. This bill is once again being supported by the Baltimore Police Commissioner and received support from the Baltimore City States Attorney the last time this bill was filed in 2018.

I hope that you all see the importance of this legislation. I hurt to read every instance of gun violence in our state, and hope this can be a major step towards getting these guns and criminals off our streets.

For these reasons I ask for a favorable report on Senate Bill 468.

Williams_FAV_SB468

Uploaded by: WILLIAMS, CARRIE

Position: FAV



State of Maryland
Office of the Attorney General

February 11, 2020

TO: The Honorable William C. Smith, Jr., Chair, Judicial Proceedings
Committee

FROM: Carrie J. Williams, Assistant Attorney General

RE: Attorney General's Support for SB 468

The Attorney General urges the Judicial Proceedings Committee to report favorably on Senate Bill 468. Senate Bill 468 adds the crimes of possession of a firearm, rifle, or shotgun by a disqualified person to the list of offenses from which the State can take an interlocutory appeal if the trial court suppresses evidence based on an alleged violation of the state or federal constitution.

Currently, the State can appeal the suppression of evidence based on an alleged constitutional violation only in cases where the defendant is charged with certain drug offenses or a crime of violence. If a defendant is charged with unlawfully possessing a firearm, but is not also charged with a crime of violence or felony drug charge, the State cannot appeal the suppression of evidence in that case, even if the suppression court's ruling was patently incorrect and the result of the ruling is that the State cannot proceed with the charges.

Adding these charges to the list of crimes from which the State can take an interlocutory appeal will help the State successfully prosecute gun crimes while still protecting the rights of criminal defendants. Courts and Judicial Proceedings Section 12-302(c)(4) requires the State to note the interlocutory appeal no later than 15 days after the ruling, and requires the appellate court to issue a decision in the case within 120 days from the date the record is received in the appellate court. Md. Code Ann., Cts. & Jud. Proc. § 12-302(c)(4). If the State loses the appeal, it must dismiss the charges against the defendant in all cases except homicides. Finally, except in crimes of violence, the defendant must be released on his or her personal recognizance while the appeal is pending.

Courts and Judicial Proceedings Section 12-302(c)(4) balances public safety with the right of criminal defendants to have their case heard without undue delay. The Attorney General urges the Committee to report favorably on SB 468.

cc: Members of the Committee

BPD_FAV_SB468_

Uploaded by: WIRZBERGER, MICHELLE

Position: FAV



BALTIMORE POLICE DEPARTMENT



BERNARD C. "JACK" YOUNG
Mayor

MICHAEL S. HARRISON
Police Commissioner

TO: The Honorable Members of the Senate Judicial Proceedings Committee

FROM: Michelle Wirzberger, Esq., Director of Government Affairs, Baltimore Police Dept.

RE: Senate Bill 468 – Criminal Procedure – Appeals – Unlawful Possession of a Firearm

DATE: February 13, 2020

POSITION: SUPPORT

Chair Smith, Vice-Chair Waldstreicher, and members of the Committee, please be advised that the Baltimore Police Department **supports** Senate Bill 468.

Senate Bill 468 allows the State to appeal the decisions of a criminal trial court in gun cases where evidence offered by the State has been excluded, or where a decision has been made to return property (a firearm) to the defendant. Senate Bill 468 ensures that the State has an equal and fair opportunity to convict prohibited persons who break the law a second time by illegally possessing a gun.

Under the United States code of criminal justice, a *defendant* may appeal a finding of a court in virtually all proceedings – all the way to the Supreme Court. However, in Maryland, the *State* may only appeal the decision of a criminal trial court in very limited circumstances. They currently cannot appeal decisions made during gun cases. There are numerous examples of gun cases in which a motion to suppress evidence gathered through a car search or pat down has been granted because of statements made by a defendant who is prohibited from possessing a firearm; this bill would close that loophole. It is important to note that this legislation in no way affects law-abiding citizens who are permitted to possess a firearm.

While getting repeat violent offenders off the street remains our top priority, the State must have the tools to successfully prosecute these gun offenders so that they *stay* off the street. This bill would provide another mechanism to ensure that we are able to keep our residents and visitors of Baltimore City safe.

Therefore, we respectfully request a **favorable** report on Senate Bill 468.

SULLIVAN_FWA_SB 468

Uploaded by: Sullivan, Cara

Position: FWA



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TTY USERS CALL VIA MD RELAY

Chair Smith, Vice-Chair Waldstreicher, Members of the Committee
Judicial Proceedings Committee
2 East, Miller Senate Office Building
Annapolis, MD 21401

Senate Bill 468 - Criminal Procedure - Appeals - Unlawful Possession of a Firearm

POSITION: Support with Amendments

Dear Chair Smith, Vice-Chair Waldstreicher, Members of the Judicial Proceedings Committee:

The Administration supports Senate Bill 468 - Criminal Procedure - Appeals - Unlawful Possession of a Firearm, legislation that provides prosecutors with the ability to appeal a court's decision not to include evidence during a trial for certain firearm offenses. We'd like to thank the sponsor for his sponsorship of the legislation.

Current law allows the State to appeal from a decision of a trial court that excludes evidence offered by the State in violent crime and drug felony cases. Senate Bill 468 proposes to expand this ability to cases under Public Safety Article §§ 5-133 (illegal possession of a regulated firearm), 5-205 (possession of a rifle or shotgun by a prohibited person), and 5-206 (possession of a rifle or shotgun by a person with a previous conviction of a crime of violence or drug felony).

The ability of the State to appeal decisions of the court to exclude evidence during trials for firearms offenses is a critical policy toward ensuring we can get a handle on gun violence. The Administration respectfully asks the Committee to consider amending the legislation to include additional firearm offenses as outlined in Senate Bill 273, to include the use of a firearm during drug trafficking; illegal transfer of a firearm to a prohibited person; knowing and willful straw purchase of a firearm; possession of a stolen firearm; transporting a firearm for the purpose of unlawfully selling or trafficking a regulated firearm; and obliterating a serial number.

For these reasons, the Administration asks for your favorable with amendments report on Senate Bill 468. For additional details, please contact Cara Sullivan, Deputy Legislative Officer, at 410-974-3336 or cara.sullivan@maryland.gov.