

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 397
Judiciary

(Delegate McDermott, *et al.*)

Criminal Law - Carrying Weapons on School Property - Law Enforcement
Officers Safety Act

This bill creates an exception to the prohibition against carrying a deadly weapon on public school property for a person who holds a handgun permit or who is certified to carry a concealed firearm under the federal Law Enforcement Officers Safety Act (LEOSA).

Fiscal Summary

State Effect: The bill's changes do not affect State finances or operations. Notifications of the changes to public school systems can be handled with the existing budgeted resources of the Maryland State Department of Education (MSDE).

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: None.

Analysis

Current Law:

Carrying a Deadly Weapon on School Property

A person is prohibited from carrying or possessing a firearm, knife, or deadly weapon of any kind on any public school property. A person who violates this prohibition using any weapon other than a handgun is guilty of a misdemeanor and subject to maximum penalties of imprisonment for three years, a fine of \$1,000, or both. The misdemeanor

penalties for a violator using a handgun are as follows: (1) for a first offense, a fine of not less than \$250 and not more than \$2,500 and/or a sentence of not less than 90 days or more than 3 years; (2) for a second offense, a mandatory minimum sentence of 3 years and a maximum sentence of 10 years; and (3) for a third or subsequent offense, a mandatory minimum sentence of 5 years and a maximum sentence of 10 years.

The prohibition against carrying a deadly weapon on public school property does not apply to:

- law enforcement officers in the regular course of their duty;
- a person hired by a county board of education specifically for the purpose of guarding public school property;
- persons engaged in organized shooting activity for educational purposes; or
- a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or replica of a weapon for educational purposes.

Handgun Permits

Maryland law requires a person to be issued a permit to wear, carry, or transport a handgun. To be issued a permit to carry a handgun by the Department of State Police (DSP), an applicant (1) must be an adult; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than one year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) if younger than 30, must not have been committed to a facility for juveniles for longer than one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two years; (4) must not have been convicted of a controlled dangerous substance violation and must not presently be an addict, a habitual user of a controlled dangerous substance, or an alcoholic; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; and (6) must have a good and substantial reason to wear, carry, or transport a handgun. “Good and substantial reason” includes a finding by DSP that the permit is necessary as a reasonable precaution against apprehended danger.

A handgun permit, however, does not provide an exception to the prohibition against carrying a deadly weapon on public school property.

Law Enforcement Officer Safety Act

LEOSA allows federal, state, and local “qualified law enforcement officers” and “qualified retired law enforcement officers” to carry a concealed firearm in any jurisdiction in the United States without obtaining any permit required by the State or local jurisdiction. LEOSA does not override the federal Gun-Free School Zone Act, which prohibits carrying a firearm within 1,000 feet of an elementary or secondary school. A retiree may carry a concealed firearm with his/her issued retiree identification card and with certification that he/she has successfully completed annual firearms training at his/her own cost. The retiree’s organization may annually issue a single LEOSA card which the retiree may carry in lieu of carrying his/her retirement card and the annual certification document.

Background: Some local school systems have memorandums of understanding with local law enforcement agencies to have specially trained officers, known as school resource officers (SROs), in schools. MSDE reports that there are 302 SROs for the 1,437 schools in the State.

In 2010, the U.S. Department of Education awarded MSDE a \$3.1 million Safe and Supportive School grant to help measure school safety at the building level and assist in helping those schools with the greatest safety needs. The Governor’s proposed fiscal 2014 capital budget includes \$25 million for statewide public school security improvements.

According to the National Conference of State Legislatures, there are currently 18 states, including Maryland, that have proposed legislation in 2013 that relates to the carrying of firearms by law enforcement, SROs, and other security personnel. In addition to Maryland, these states are Alabama, Arizona, Arkansas, California, Georgia, Iowa, Indiana, Louisiana, Mississippi, North Carolina, New Jersey, New York, Oklahoma, Pennsylvania, Tennessee, Texas, and Virginia.

On January 16, 2013, President Obama signed 23 executive actions to strengthen existing gun laws and to take related steps addressing mental health and school safety. The President also asked Congress to reinstate and strengthen the assault weapons ban that expired in 2004, to restrict ammunition magazines to no more than 10 rounds, and to expand background checks to virtually all gun transactions. All of these Presidential Actions can be found online at <http://www.whitehouse.gov/briefing-room/presidential-actions>.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Department of Education, Department of State Police, National Conference of State Legislatures, Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2013
ncs/lgc

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