

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 904
Appropriations

(Delegate B. Barnes, *et al.*)

Rules

Gun-Free Higher Education Zones

This bill prohibits, with specified exceptions, a person from carrying or possessing a firearm on the property of a public institution of higher education in the State. A first violation is a civil offense punishable by a fine of \$2,500. A subsequent violator is (1) prohibited from *knowingly* carrying or possessing a firearm on the property of a public institution of higher education in the State and (2) guilty of a misdemeanor and on conviction is subject to maximum penalties of imprisonment for 18 months and/or a \$1,000 fine. A public institution of higher education must post signs to provide notice of the bill's prohibition in prominent locations on the property of the institution, including at entrances to and exits from the property. The bill also (1) requires the Board of Regents for the University System of Maryland to incorporate into their bylaws, policies, and procedures the current weapons practice on their campuses and (2) alters provisions relating to an exception from the prohibition on carrying or possessing specified weapons on specified property for an off-duty or retired law enforcement officer.

Fiscal Summary

State Effect: Minimal increase in higher education expenditures for public institutions of higher education to post signs. Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

Local Effect: Minimal increase in local expenditures for community colleges to post signs. Minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: The bill's prohibition does not apply to:

- a law enforcement officer;
- a retired law enforcement officer in good standing;
- a guard hired by the institution;
- a person who is required or authorized by policies of the institution to possess a firearm;
- a person engaged in organized shooting activity for educational purposes;
- a person engaged in other specified historical activities for educational purposes with a written invitation from the president of the institution;
- an employee of an armored car company authorized to carry a firearm in the State in the regular course of employment;
- the area surrounding a building owned or operated by a public institution of higher education for the purpose of student housing, teaching, research, or administration, as specified;
- a person issued a handgun permit with a specified letter from the Secretary of State Police; or
- property used by a public institution of higher education that is owned by an individual or private entity, unless the property is used for student housing.

The bill also alters provisions relating to the exception from the prohibition on carrying or possessing specified weapons on specified property for an off-duty or retired law enforcement officer. First, the bill alters the requirement that an officer or retired officer must display the officer's or retired officer's badge or credential and instead requires that the badge or credential is in the officer or retired officer's possession. Second, the bill repeals the requirement that the person must be a parent, guardian, or visitor of a student attending the school.

The Secretary of State Police, on request of an applicant to whom the secretary has issued a handgun permit on the grounds that the applicant has objectively established that the applicant's life is in danger or that the applicant is being targeted by individuals wishing to do the applicant harm, must issue a letter to the applicant affirming that the permit has been issued for those reasons.

Current Law: 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.

This prohibition does not apply to:

- a law enforcement officer in the regular course of the officer's duty;
- an off-duty law enforcement officer or a person who has retired as a law enforcement officer in good standing from a law enforcement agency of the United States, the State, or a local unit in the State who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that (1) the officer or retired officer is displaying the officer's or retired officer's badge or credential; (2) the weapon carried or possessed by the officer or the retired officer is concealed; and (3) the officer or retired officer is authorized to carry a concealed handgun in the State;
- a person hired by a county board of education specifically for the purpose of guarding public school property;
- a person engaged in an 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 a replica of a weapon for educational purposes.

Handgun prohibitions pertain to (1) wearing, carrying, or transporting a handgun; (2) the use of a handgun or antique firearm in the commission of a crime; and (3) possession of a firearm at a public demonstration. Violators are guilty of a misdemeanor and subject to imprisonment for 30 days to 10 years, depending on the nature of the offense and whether there have been any prior violations by the offender. Most of the violations are subject to mandatory minimum sentencing.

Generally, an applicant for a handgun permit must, among other requirements, have a good and substantial reason to wear, carry, or transport a handgun. "Good and substantial reason" includes a finding that the permit is necessary as a reasonable precaution against apprehended danger.

Current law requirements and background relating to the issuance of handgun permits is summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background**.

State Revenues: General fund revenues increase minimally as a result of the bill's monetary penalty provisions from cases heard in the District Court.

State Expenditures: Higher education expenditures increase minimally for some public institutions of higher education to post signs to provide notice of the bill's prohibition.

Morgan State University advises that the required signs can be posted using existing budgeted resources. The University System of Maryland advises that the bill's requirements have minimal impact on its expenditures. St. Mary's College of Maryland advises that nine signs are required at an initial cost of approximately \$2,500. Baltimore City Community College advises that the initial cost for the posting of signs is approximately \$1,500.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) advises that it needs to update the Sentencing Guideline Offense Table in the *Maryland Sentencing Guidelines Manual* to reflect the new offense. As these are routine activities for MSCCSP, this can be handled with existing budgeted resources.

The Office of the Public Defender (OPD) advises that the bill results in a minimal increase in cases handled by the agency. However, according to OPD, because the increase in cases is unknown, the overall effect of the bill on OPD cannot be determined at this time.

General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities. The number of people convicted of this proposed crime is expected to be minimal.

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. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including health care costs) is about \$870 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$210 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 inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for 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.

The Department of State Police can handle the bill's requirements with existing budgeted resources.

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

Local Expenditures: Local expenditures increase minimally for some community colleges to post signs to provide notice of the bill's prohibition. For example, Prince George's County reports that expenditures increase for Prince George's Community College to post signs.

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. A \$45 per diem State grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for 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. Per diem operating costs of local detention facilities have ranged from approximately \$40 to \$170 per inmate in recent years.

Additional Information

Prior Introductions: HB 159 of 2017, a similar bill, passed with amendments in the House, passed with amendments in the Senate, and had a conference committee appointed, but no further action was taken. HB 1002 of 2016, a similar bill, passed the House, was referred to the Senate Judicial Proceedings Committee, and had no further action taken on it. Its cross file, SB 906, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. SB 311 of 2011, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Montgomery and Prince George's counties; cities of Bowie and Takoma Park; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland Higher Education Commission; Baltimore City Community College; University System of

Maryland; Morgan State University; St. Mary's College of Maryland; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

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Appendix

Handgun Permit Requirements – Current Law/Background

Generally, with certain exceptions, to be issued a handgun permit by the Secretary of State Police, an applicant (1) must be 18 or older; (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) 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; (4) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; (5) must have successfully completed, prior to application and each renewal, a specified firearms training course approved by the Secretary; (6) 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; and (7) must have a good and substantial reason to wear, carry, or transport a handgun. “Good and substantial reason” includes a finding that the permit is necessary as a reasonable precaution against apprehended danger. The Secretary may limit the geographic area, circumstances, or times of day, week, month, or year in which a permit is effective.

A handgun permit applicant must successfully complete, prior to the application and each renewal, a firearms training course approved by the Secretary that includes (1) for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor, or 8 hours of instruction for a renewal application; (2) classroom instruction on State firearm law, home firearm safety, and handgun mechanisms and operation; and (3) a firearms qualification component that demonstrates the applicant’s proficiency and use of the firearm.

An applicant for a permit is not required to complete a certified firearms training course if the applicant:

- is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;
- is a member, retired member, or honorably discharged member of the U.S. Armed Forces or the National Guard;
- is a qualified handgun instructor; or
- has completed a firearms training course approved by the Secretary.

A handgun permit application costs \$75; two years after the initial permit and every three years thereafter, a \$50 renewal fee is due. In addition, the applicant must pay for fingerprint-based federal and State criminal history background checks for an initial application. A person who applies for a renewal of a handgun permit is not required to be fingerprinted unless the Secretary requires a set of the person's fingerprints to resolve a question of the person's identity.

Generally a handgun permit expires on the last day of the holder's birth month following two years after the date the permit is issued; however, the Secretary may establish an alternative expiration date for a permit to coincide with the expiration of a private detective license, a security guard certification, or a special police officer commission. A permit may be renewed for successive periods of three years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee.

In 2017, the Department of State Police (DSP) received 4,327 new applications for handgun permits and 4,513 handgun permit renewal applications. DSP denied 411 applications in the same year. There are currently approximately 20,043 active handgun permits in the State. It generally takes less than two days to receive the results of a national criminal history records check from the Federal Bureau of Investigation and approximately 90 days to process, investigate, and issue a permit.