

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 497 (Senator Ready, *et al.*)
Judicial Proceedings

Public Safety – Handgun Permits – Protective Order and Peace Order

This bill requires the Secretary of State Police to issue a handgun permit, within 10 days after receipt of an application, to a person who is otherwise qualified and who is a person eligible for relief or under the protection of a current civil protective order, or a petitioner under a current peace order. The Secretary must temporarily waive the requirement to complete a firearms training course pursuant to the issuance of a handgun permit for such applicants. The bill establishes (1) provisions relating to the temporary waivers and the issuance of permits under the bill and (2) requirements for the Handgun Review Board.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: An applicant issued a permit under the bill's temporary waiver provision must complete the firearms training course within 60 days after the issuance of the permit. A permit issued under these provisions expires five years after issuance.

Within 10 days after receiving a request from an applicant to review a decision of the Secretary, the Handgun Review Board must review the record developed by the Secretary or conduct a hearing. The board must sustain, reverse, or modify the decision of the Secretary within five calendar days after reviewing the record or conduct a hearing.

Current Law: Generally, to be issued a permit to carry a handgun by the Secretary of State Police, an applicant must meet specified requirements, including a requirement to 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**.

Appeal Process

Informal Review by Secretary of State Police: A person who is denied a permit to carry, wear, or transport a handgun, or a renewal of such a permit, or whose permit is revoked or issued with restrictions by the Secretary, may request the Secretary to conduct an informal review by filing a written request within 10 days after receipt of written notice of the Secretary’s initial action. The Secretary must conduct the informal review and may conduct a personal interview with the person requesting the review. The Secretary must sustain, reverse, or modify the action under informal review and provide written notification within 30 days after receipt of the request for informal review. A person is not required to file a request for an informal review before requesting review by the board.

Review by Handgun Permit Review Board: A person whose application for a handgun permit or a renewal of a permit has been rejected, or whose permit has been revoked or limited by the Secretary, may request the board to review the decision of the Secretary by filing a written request within 10 days after receipt of written notice of the Secretary’s action. In addition, a person whose application for a permit or renewal of a permit is not acted on by the Secretary within 90 days after submission may request a hearing before the board by filing a written request with the board.

Within 90 days after receiving a request for a review of the Secretary’s action, the board must review the record developed by the Secretary or conduct a hearing. The board may receive and consider additional evidence submitted by a party in conducting a review of the decision of the Secretary. Based on the board’s consideration of the record and any additional evidence, the board must sustain, reverse, or modify the Secretary’s decision. The decision of the board is not final until a written signed decision is sent to the applicant or holder of the permit; however, if the board is unable to reach a decision by majority vote, the decision of the Secretary stands.

The board must meet at a location accessible to the public and with sufficient frequency to ensure that a request for review and notification of the decision of the board occurs within 120 days of receipt of the request for review by the board. A majority of the board must designate the location, time, and date of meetings.

Protective Orders

If a judge finds by a preponderance of the evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse. Only individuals meeting specified relationship requirements are eligible for protective orders. Final protective orders may include various forms of relief, as specified, including ordering the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief; awarding temporary custody of a minor child of the respondent and a person eligible for relief; establishing temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions; and awarding emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support.

The final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective order.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years in specified circumstances set forth in statute. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief. A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. Statutory provisions set forth circumstances under which a final protective order may be modified, rescinded, or extended.

Peace Orders

An individual who does not meet the requirements of a "person eligible for relief" under protective order statutes may file a petition for a peace order with the District Court or the District Court commissioner that alleges the commission of specified acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition. Relief granted in a final peace order is effective for the period stated in the order but may not exceed six months.

According to the 2015 *Uniform Crime Report* (the latest information readily available), 30,534 domestic violence crimes were reported in Maryland. Assault was by far the most frequently reported crime, with 25,996 incidents in calendar 2015. Of reported assaults, simple assaults comprised 21,054 incidents. There were 68 domestic violence homicides.

In fiscal 2016 (the latest information readily available), the circuit courts granted 1,784 temporary protective orders and 1,308 final protective orders. In fiscal 2017, the District Court granted 15,257 interim protective orders, 19,688 temporary protective orders, and 8,933 final protective orders. In fiscal 2017, there were four petitions for permanent protective orders.

Background: The Handgun Review Board is a State government entity within the Department of Public Safety and Correctional Services. It was created by Chapter 13 of 1972. The board consists of five members appointed by the Governor from the general public, with advice and consent of the Senate. The Governor designates the chairman. Members serve three-year terms and are eligible for reappointment. Board members are entitled to compensation in accordance with the State budget for each day that they are engaged in the discharge of their duties as well as reimbursement for expenses.

State Expenditures:

Handgun Review Board

Generally, the board meets twice each month. However, under the bill, the board must meet to review the record developed by the Secretary of State Police or conduct a hearing within 10 days after a request from a specified eligible applicant. As a result, the board likely needs to meet more frequently.

Each time the board meets, members are paid a stipend of \$127 (the chair is paid \$150) and reimbursed for travel expenses (average annual cost is \$800 per member). Thus, each meeting of the board costs \$1,500. *For illustrative purposes*, if the board meets an additional two times per month to meet the bill's requirements, general fund expenditures increase by \$36,000. This example does not include the cost for law enforcement officers from the Department of General Services who are paid to secure the facility for the duration of each meeting of the board.

The board does not have a dedicated staff member; rather, it has two staff members who are shared with other boards within the Office of the Secretary of Public Safety and Correctional Services. With an increase in meeting frequency for the board, a dedicated staff member may be necessary, although that is unclear.

Department of State Police

The Department of State Police (DSP) advises that handgun permits are currently issued to individuals who are otherwise qualified and are eligible for relief under the protection of a current civil protective order. A peace order is considered for meeting the good and substantial reason requirement for a handgun permit; however, issuance depends on the underlying reason for the peace order.

Under the bill, DSP will perform all required checks relating to background and qualifications, issue the permit to an otherwise qualified applicant, and then hold the application until training is completed. Once training is completed, the file will be closed until renewal. If the required training is not completed within 30 days after issuance of the permit, the permit will be suspended. Although the bill has an operational impact on DSP, DSP can implement the bill with existing budgeted resources.

Additional Information

Prior Introductions: None.

Cross File: Although HB 1189 (Delegate Rey, *et al.* – Judiciary) is designated as a cross file, it is not identical.

Information Source(s): Garrett and Montgomery counties; Judiciary (Administrative Office of the Courts); Department of Human Services; 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.