

Department of Legislative Services
 Maryland General Assembly
 2022 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1206 (Delegate Grammer)
 Judiciary

Public Safety – Handgun Permit Requirement – Repeal (Maryland’s
 Constitutional Carry Act of 2022)

This bill repeals (1) the requirement for a person to have a permit to wear, carry, or transport a handgun in order for the person to wear, carry, or transport a handgun; (2) corresponding requirements and procedures related to the issuance of a handgun permit; and (3) criminal penalties for violations relating to the failure to follow requirements and procedures relating to a handgun permit. The bill also repeals the application of specified handgun-related criminal prohibitions and establishes additional prohibitions.

Fiscal Summary

State Effect: General fund revenues decrease by \$802,500 in FY 2023 due to the termination of handgun permit applications (and permit renewals) and associated fees. Future years reflect anticipated increases in handgun permits and renewals that would otherwise be issued. General fund revenues and expenditures decrease minimally due to the bill’s changes to penalty provisions.

(in dollars)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
GF Revenue	(\$802,500)	(\$1,123,500)	(\$1,179,700)	(\$1,238,700)	(\$1,300,600)
GF Expenditure	(-)	(-)	(-)	(-)	(-)
Net Effect	(\$802,500)	(\$1,123,500)	(\$1,179,700)	(\$1,238,700)	(\$1,300,600)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Minimal decrease in local revenues and expenditures due to the bill’s changes to penalty provisions.

Small Business Effect: Meaningful.

Analysis

Bill Summary: A person younger than age 21 is prohibited from:

- wearing, carrying, or transporting a handgun, whether concealed or open, on or about the person;
- wearing, carrying, or knowingly transporting a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State; and
- wearing, carrying, or transporting a handgun whether concealed or open, on or about the person with the handgun loaded with ammunition.

The bill repeals the application of specified existing criminal prohibitions and penalties relating to wearing, carrying, or transporting a handgun against a person who is at least age 21. The bill prohibits a person (of any age) from wearing, carrying, or transporting a handgun, whether concealed or open, on or about the person (1) while on public school property in the State or (2) with deliberate purpose of injuring or killing another person.

Current Law:

Handgun Permit: A person must have a handgun permit before the person carries, wears, or transports a handgun in the State. Existing statutory requirements and background relating to the issuance of handgun permits are summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background**.

Prohibitions: With specified exceptions, including possession of a handgun permit, a person may not (1) wear, carry, or transport a handgun, whether concealed or open, on or about the person; (2) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State; (3) violate items (1) or (2) listed above while on public school property in the State; (4) violate items (1) or (2) listed above with the deliberate purpose of injuring or killing another person; or (5) violate items (1) or (2) listed above with a handgun loaded with ammunition. There is a rebuttable presumption that a person who transports a handgun does so knowingly. A violator is guilty of a misdemeanor and subject to the penalties listed below. The subsequent offender provisions apply to previous convictions under § 4-203 (wearing, carrying, or transporting a handgun), § 4-204 (use of handgun or antique firearm in commission of crime), § 4-101 (dangerous weapons), and § 4-102 (deadly weapons on school property) of the Criminal Law Article, as shown in **Exhibit 1**.

Exhibit 1
Penalties for Specified Handgun Violations

First-time Offender – No prior convictions under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article

In General – Imprisonment for at least 30 days and up to 3 years and/or fine of \$250 to \$2,500

Offense on Public School Property – Imprisonment for at least 90 days

Subsequent Offender – One prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article

In General – Imprisonment for at least 1 year and up to 10 years

Offense on Public School Property – Imprisonment for at least 3 years and up to 10 years

Court may not impose less than the applicable minimum sentence.

Offense with handgun loaded with ammunition – With required notice, court may not suspend any part of or impose less than the applicable mandatory minimum sentence. Person is not eligible for parole during mandatory minimum sentence.*

Subsequent Offender – More than one prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article

In General – Imprisonment for at least 3 years and up to 10 years

Offense on Public School Property – Imprisonment for at least 5 years and up to 10 years

Offense with Deliberate Purpose of Injuring or Killing Another Person – Imprisonment for at least 5 years and up to 10 years

Court may not impose less than the applicable minimum sentence

Offense with handgun loaded with ammunition – With required notice, court may not suspend any part of or impose less than the applicable mandatory minimum sentence. Person is not eligible for parole during mandatory minimum sentence.*

*Contains exception for § 4-305 of the Correctional Services Article (parole for an inmate at the Patuxent Institution).

Source: Department of Legislative Services

A person who holds a handgun permit may not wear, carry, or transport a handgun while the person is under the influence of alcohol or drugs. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$1,000. (The bill retains this crime without the reference to a handgun permit and the associated penalty.)

State Revenues: General fund revenues decrease beginning in fiscal 2023 from foregone handgun permit application fees, as discussed below. General fund revenues decrease minimally as a result of the bill's alteration of the application of existing monetary penalties from cases heard in the District Court.

In 2019, the Department of State Police (DSP) received 5,283 initial handgun permit applications and 7,945 renewal applications; in 2020, 11,512 initial applications and 4,886 renewals; and in 2021, 12,189 initial applications and 6,242 renewals.

Beginning in fiscal 2023, this bill results in the loss of all revenues from initial handgun permit application fees (\$75 each) and renewal application fees (\$50 each). Assuming an average of 10,000 initial applications per year and an average of 6,400 renewals per year, general fund revenues decrease by an estimated \$802,500 (reflecting the bill's October 1, 2022 effective date) in fiscal 2023. Assuming that initial applications and renewals would otherwise increase by 5% per year, the decrease in fee revenues reaches approximately \$1.3 million by fiscal 2027. However, this estimate does not account for any possible reduction in fees (for a permit that is granted for one day only and at one place only) or exemptions from the fee requirements.

While the bill is expected to generate an increase in handgun purchases, the extent of any increase in handgun sales cannot be reliably predicted at this time. Thus, this analysis does not address any potential increase in revenues from firearm application fees or handgun qualification licenses.

State Expenditures:

Department of State Police

The Governor's proposed fiscal 2023 State budget includes \$16.8 million in general funds for DSP's licensing division. This analysis assumes that DSP retains personnel currently assigned to processing handgun permits and reassigns these employees to assist with the increase in firearm applications and handgun qualification license applications anticipated to result from the bill.

In recent years, DSP developed an electronic process relating to handgun permit applications. This analysis does not include any costs for programming changes that may be required. Otherwise, the bill does not materially affect DSP expenditures.

Other State Agencies

The Administrative Office of the Courts (AOC) reports that it does not have age-based defendant data for violations affected by the bill. As a result, the exact impact that the bill has on court caseloads is unknown. However, AOC does not anticipate a significant fiscal or operational impact on the trial courts under the bill.

The bill likely results in a decrease in caseloads for the Office of the Public Defender (OPD); however, any such decrease cannot be reliably determined at this time. Any decrease in agency caseloads aids OPD in meeting its caseload standards.

The Maryland State Commission on Criminal Sentencing Policy advises that in fiscal 2021, 400 individuals were sentenced for unlawful wearing, carrying, or transporting a handgun under § 4-203 of the Criminal Law Article in the State's circuit courts; however, the ages of the offenders are not known.

Department of Public Safety and Correctional Services

General fund expenditures decrease minimally as a result of the bill's alteration of the application of existing incarceration penalties due to fewer people being committed to State correctional facilities.

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 \$4,700 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 (1) inmates who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced inmates confined in a local detention center between 12 and 18 months; and (3) 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.

Local Revenues: Revenues decrease minimally from monetary penalties imposed in cases heard in the circuit courts.

Local Expenditures: Local incarceration expenditures decrease minimally due to the bill's effect on the application of existing incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Small Business Effect: The repeal of handgun permit requirements likely leads to an increase in firearm and ammunition sales in the State. However, such an effect cannot be reliably quantified at this time. The bill's changes could also lead to a decrease in the demand for any small businesses that provide firearms training or electronic fingerprint services.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Baltimore, Garrett, and Howard counties; City of Havre de Grace; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Baltimore City Community College; University System of Maryland; Morgan State University; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of State Police; Maryland Department of Transportation; Prince George's County Public Schools; 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 2021, the Department of State Police (DSP) received 12,189 new applications for handgun permits and 6,242 handgun permit renewal applications. DSP denied 2,017 applications in the same year. There are currently approximately 26,120 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 FBI and approximately 90 days to process, investigate, and issue a permit.