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TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: The Office of the Attorney General

RE: HB 1291 – Public Safety – Untraceable Firearms – Support with Amendment

The Office of the Attorney General urges a favorable report of House Bill 1291—the “Untraceable Firearms” or “ghost guns” bill. This bill prohibits a person from manufacturing, assembling, constructing, possessing, selling, offering to sell, transferring, purchasing or receiving a firearm or frame or receiver that either lacks a serial number or other identifying information—referred to as “untraceable” firearms—or that is constructed of materials that are not detectable by a metal detector, or that has a configuration that is not detectable as a firearm when viewed through an x-ray machine—referred to as “undetectable” firearms. Any violator would be guilty of a misdemeanor and on conviction, subject to maximum penalties of imprisonment for two years, and/or a \$5,000 fine. The bill would also amend existing law to require a handgun qualification license to purchase, rent, or receive an unfinished firearm frame or receiver.

Generally, when a firearm is manufactured or imported into the United States, it must be marked with a serial number and additional information about the manufacturer and/or importer. Then, when it is sold in Maryland, a background check is conducted on the consumer and the retailer retains records of the transaction, which enables the “tracing” of records.

The “untraceable” ghost guns addressed by this legislation are designed to circumvent these federal and State gun laws. Ghost gun purveyors sell unfinished parts of a firearm, rather than the whole firearm, because the parts themselves do not qualify as a “firearm” that would trigger the serialization requirement. The unfinished parts, however, are easily made into a firearm with commonly available household tools. This process allows the purchasers to go undetected, and un-checked for purposes of background checks.

The presence of these untraceable guns on the streets threatens public safety. Law enforcement officers across the country are increasingly encountering trafficking rings that mass-manufacture and sell untraceable firearms, which are now a consistent and pervasive component of crime in our communities.¹ For example, the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) reports that 30 percent of firearms recovered in California in 2019 were unserialized.² These undetectable ghost guns are often used in shootings—in Maryland and elsewhere—by individuals who would not pass a background check.³

We recommend that the bill’s penalty provision be increased to be consistent with the penalties that currently apply to other firearms violations. As written, the bill makes violation a misdemeanor punishable by up to two years imprisonment and or a \$5,000 (*see* § 5-703(b)(1)), whereas firearms violations are typically subject a term of imprisonment of five years and or a \$10,000 fine. *See* Md. Code Ann., Pub. Safety § 5-144(b). Untraceable and undetectable firearms are just as dangerous as regulated firearms, and we believe that the penalties should reflect that fact.

With that amendment, and for the reasons stated above, the Office of the Attorney General urges a favorable report of House Bill 1291.

cc: Members of the Judiciary Committee

¹ *See* Everytown Research and Policy, *Untraceable: The Rising Specter of Ghost Guns* (May 14, 2020), at 12, <https://everytownresearch.org/report/the-rising-specter-of-ghost-guns/>.

² Josiah Bates, *The Saugus High School Shooter Used an Illegal “Ghost Gun.” Authorities Warn More Criminals Are Using Untraceable Weapons to Get Around Gun Laws*, Time Magazine (Nov. 23, 2019), <https://time.com/5737227/saugus-shooter-ghost-gun/>.

³ Justin Fenton, *Baltimore Police Report a 400 % Increase in Untraceable ‘Ghost Guns,’ as Legislators Consider Action* Baltimore Sun (Feb. 18, 2021), <https://www.baltimoresun.com/news/crime/bs-pr-md-ci-cr-ghost-gun-ban-20210218-ae2dortu6ngn5llmfmq6yxtx6m-story.html>; *see also*, Richard Winton & Mark Puente, *Rifle Used in Deadly Riverside Shooting was Untraceable ‘Ghost Gun,’ Sources Say*, Baltimore Sun (Aug. 14, 2019), <https://www.baltimoresun.com/rifle-used-in-deadly-riverside-shooting-was-untraceable-ghost-gun-sources-say-story.html>