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Committee

Chair

Government Operations and  
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Joint Committee on Administrative,  
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Testimony of Delegate Samuel Rosenberg

Before the House Judiciary Committee

In support of House Bill 1040

**Firearms - Advice of Counsel Letter**

Mister Chairman and Members of the Committee:

House Bill 1040 would help the Executive Branch and the General Assembly understand the constitutional status of gun safety legislation in light of a pending Supreme Court decision. Specifically, House Bill 1040 would require a letter from the Office of the Attorney General by September 1, 2022 detailing the implications of *New York State Rifle and Pistol Association Inc. v. Bruen*.

The *Bruen* case deals with a New York law which requires a concrete need for self-defense, or a “proper cause,” for a person to carry a concealed weapon outside of the home.<sup>1</sup> That statute is being challenged under a reading of the Second Amendment that the law is an unconstitutional restriction on the right of citizens to bear arms.<sup>2</sup>

*Bruen* is the first case to reach the Supreme Court regarding the Second Amendment since *McDonald v. City of Chicago* in 2010. *McDonald* interpreted *District of Columbia v. Heller*, which invalidated state bans on possession of firearms in homes. The *Bruen* case presents the question of whether the Supreme Court will expand the holding in *Heller* and *McDonald*.

This is a significant question with wide ranging effects for state legislatures across the country and particularly in Maryland. Our possession of firearms laws closely mirror the law being considered in *Bruen*, making the ruling particularly pressing to this body.

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<sup>1</sup> Totenberg, Nina; “Gun Rights are back at the Supreme Court for the First Time in More Than a Decade.”; Published November 3, 2021; <https://www.npr.org/2021/11/03/1049380749/gun-rights-supreme-court-arguments-new-york>.

<sup>2</sup> *Id.*

It is critically important that the executive and legislative branches have legal guidance from the Attorney General after the *Bruen* decision is handed down, most likely in June. An essential element of our republican system is the cooperation and communication among the branches of government. An advice of counsel letter on the *Bruen* decision will promote consistency and predictability in our laws.

This is not the first time that the General Assembly has been faced with the need to act in anticipation of federal action after *sine die*. In response to the legislative jeopardy confronting the Affordable Care Act, the General Assembly enacted House Bill 959, Health Insurance – Consumer Protections (2020), which provides:

“The Office of the Attorney General . . . shall: monitor federal statutes and regulations to determine whether provisions of the federal Affordable Care Act or corresponding regulations are repealed or amended to the benefit or detriment of Maryland consumers,” and make “recommendations for legislation the General Assembly should enact to address the repeals or amendments.”

I respectfully urge the Committee to give House Bill 1040 a favorable report.

March 2, 2022