

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 730
Judiciary

(Delegate Simmons, *et al.*)

Judicial Proceedings

**Task Force to Study Access of Individuals with Mental Illness to Regulated
Firearms**

This bill establishes a Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms. The task force must (1) study the adequacy of State laws and policies relating to the access of individuals with a history of mental illness to regulated firearms and the access of law enforcement officers to mental health records; and (2) consider and make recommendations regarding legislative options for further limiting the access of individuals with a history of mental illness to regulated firearms and expanding the access of law enforcement officers to certain mental health records. The task force will be staffed by the Governor's Office of Crime Control and Prevention (GOCCP). The task force must report its findings and recommendations by December 31, 2011.

The bill takes effect June 1, 2011, and terminates May 31, 2012.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for GOCCP are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Maryland State Police regulates firearms and firearms dealer licensees under provisions of the Public Safety Article. A regulated firearm means any

handgun or specified assault weapon. The provisions of the subtitle do not apply to certain transactions and acts, including (1) the sale, transfer, or possession of an antique firearm; (2) use of a firearm by law enforcement or military personnel acting within the scope of their official duties; (3) purchases, sales, and transportation to or by a federally licensed gun manufacturer, dealer, or importer; or (4) the receipt of a regulated firearm by inheritance, if the heir forwards to the Secretary of State Police a completed application to purchase or transfer that regulated firearm.

The subtitle does not affect (1) a sale or transfer for bona fide resale in the ordinary course of business of a licensee; or (2) a sale, rental, transfer, or the use of a regulated firearm by law enforcement or military personnel.

A person must lawfully possess a dealer's license issued by the Secretary before the person engages in the business of selling, renting, or transferring regulated firearms. One dealer's license is required for each place of business where regulated firearms are sold.

An applicant for a dealer's license must submit an application, pay an application fee of \$50, and submit to a State and national criminal history records check. The Secretary must conduct an investigation to determine the truth or falsity of the information provided by the applicant. An application for a dealer's license must contain specific information, including a statement by the applicant that the applicant has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician's certificate issued within 30 days before the date of application is attached to the application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to the applicant or to another.

Providing false information or a false statement on the application is a crime, subject to maximum penalties of three years imprisonment and/or a \$5,000 fine.

State law requires the disapproval of an application or the suspension or revocation of a license under specified circumstances. A person whose license has been suspended or revoked or is aggrieved by the action of the Secretary may request a hearing under provisions of the Administrative Procedures Act, which may be subject to judicial review. A dealer's license is not transferable.

A dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation is a separate crime.

To be issued a permit to wear, carry, or transport a handgun by the Secretary of State Police, an applicant must meet certain criteria, including not exhibiting a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another.

A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified under Title 5 of the Public Safety Article. A person may not possess a regulated firearm if the person meets specific disqualifying criteria, including (1) suffering from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and having a history of violent behavior against the person or another, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another; or (2) confinement for more than 30 days to a mental health "facility," as defined in the Health-General Article, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another.

A violator is guilty of a felony and subject to a nonsuspendable, nonparolable, mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Under a separate prohibition relating to knowing participation in a violation of this title, a violator is subject to maximum penalties of five years imprisonment and/or a fine of \$10,000. Each violation of this prohibition is also a separate offense.

Background: There are 242 State-regulated firearm dealer licensees in Maryland. There are about 14,000 active handgun permits in Maryland.

Recent fatal shootings in several states by persons with histories of mental instability, and who were able to legally purchase and possess firearms, have given rise to several studies and the introduction of legislation in some states. Under federal law (18 U.S.C. § 922(d)), it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution. Current state laws vary, but most states prohibit a person from possessing a firearm if the person has been adjudicated a "mental defective" (mentally incompetent) or committed involuntarily to any mental institution.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - March 7, 2011
ncs/hlb Revised - House Third Reader - March 26, 2011

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