

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 961 (Delegate McDermott, *et al.*)
Health and Government Operations

State Government - Maryland Public Information Act - Required Denials
Regarding Firearm Dealers, Owners, and Permit Holders

This bill requires a custodian to deny public inspection of all records of a person authorized, under the Public Safety Article, to (1) sell, purchase, rent, or transfer a regulated firearm or (2) carry, wear, or transport a handgun. However, a custodian is required to allow inspection of firearm or handgun records by the individual named in the record or the individual's attorney. Furthermore, the bill's provisions may not be construed to prohibit the Department of State Police (DSP) or the Department of Public Safety and Correctional Services from accessing firearm or handgun records in the performance of their official duties.

Fiscal Summary

State Effect: The bill's requirements can be handled with existing budgeted resources.

Local Effect: The bill's requirements can be handled with existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law/Background:

Access to Public Records

Generally, a custodian of a public record must permit inspection of the record at a reasonable time.

A custodian has to deny inspection of a public record or any part of a public record if (1) the public record is privileged or confidential by law or (2) the inspection would be contrary to a State statute, a federal statute or regulation, the Maryland Rules, or an order of a court of record. Denial of inspection is also mandatory for public records relating to adoption, welfare records, letters of reference, specified information about an individual maintained by a library, retirement records, certain police records, criminal charging documents, arrest warrants, personnel records, certain hospital and school records, records of certain State agencies, and certain recorded and surveillance images. Denial of inspection is required for information in a public record relating to certain medical, psychological, sociological, and financial information; trade secrets; certain personal information about public employees; information about the security of an information system; and licensing records.

Unless otherwise specified, if a custodian believes that inspection of a part of a public record by an applicant would be contrary to the public interest, the custodian may deny inspection to the applicant of that part of the record. Other permissible denials include information relating to documents that would not be available through discovery in a lawsuit, certain information about publicly administered tests, research projects conducted by an institution of the State or a political subdivision, real estate appraisals of property to be acquired by the State prior to its acquisition, certain information on inventions owned by State public higher educational institutions, and trade secrets or confidential information owned by the Maryland Technology Development Corporation.

Regulation of Firearms

DSP regulates firearms and regulated firearms dealer licensees under provisions of the Public Safety Article. "Firearm" means a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of such a weapon. It includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded. "Regulated firearm" is any handgun or any of the 45 assault weapons (or copies) identified under Title 5 of the Public Safety Article.

Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to DSP or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by DSP and are subject to a seven-day waiting period before the transaction may take place.

Among other restrictions, a person may not possess a regulated firearm in the State if the person was convicted of a "disqualifying crime," or convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years. A

disqualifying crime means a crime of violence, a felony, or a misdemeanor that carries a statutory penalty of more than two years.

A person must lawfully possess a regulated firearms dealer's license issued by the Secretary of State Police 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.

Reports of sales of all regulated firearms must be forwarded to the Firearms Registration Section of DSP within seven days of the completed sale. A dealer must also forward all disapproved applications which are being held. A dealer must maintain the dealer's copy of the application form in an alphabetical or chronological file for a minimum of three years. The prospective seller, lessor, or transferor must keep one copy of the firearm application for at least three years. These records must be open for inspection by any law enforcement officer during normal business hours or as specifically requested by the Secretary.

State licensees must also have a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives. Federal firearms licensees must maintain records of all gun sales, make those records available to law enforcement for inspection, report multiple sales, and report the theft or loss of a firearm from a licensee's inventory.

Regulation of Handguns

Maryland law requires a person to be issued a handgun permit before the person may wear, carry, or transport a handgun, with specified exceptions. To be issued a permit to carry a handgun 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) if the person is 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; (4) 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; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another; and (6) 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.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of General Services, Department of Public Safety and Correctional Services, Department of State Police, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2013
ncs/lgc

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