

Department of Legislative Services
 Maryland General Assembly
 2018 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 1262 (Senator Astle, *et al.*)
 Judicial Proceedings

Public Safety - Background Information for Firearm License Investigations -
 School Crisis Welfare Officers (School Safety Act 2018: Prevention)

This bill (1) alters the requirements for an investigation of an applicant seeking to purchase, rent, or transfer a regulated firearm; (2) establishes the Workgroup on Accurate and Integrated Background Information on Applicants for Firearm Licenses in the Department of State Police (DSP); and (3) requires the Department of Human Resources (DHR) to provide the sheriff of each county at least one individual to work as a school crisis welfare officer to conduct specified activities. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: General fund expenditures likely increase by at least \$1.8 million in FY 2019. Future years reflect minimum ongoing costs. Revenues are not affected.

(in dollars)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1,782,200	1,675,100	1,724,700	1,787,000	1,851,500
Net Effect	(\$1,782,200)	(\$1,675,100)	(\$1,724,700)	(\$1,787,000)	(\$1,851,500)

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

Local Effect: Local expenditures for local boards of education may increase minimally. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Firearm Application

In conducting an investigation for an applicant seeking to purchase, rent, or transfer a regulated firearm, instead of the Secretary of State Police being *authorized* to request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, *or* the sheriff in a county not maintaining a police force, the Secretary is *required* to request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, the sheriff in a county not maintaining a police force, the courts of the State, *and* health care facilities in the State.

Workgroup on Accurate and Integrated Background Information on Applicants for Firearm Licenses

The workgroup, which is staffed by DSP, must meet quarterly. The workgroup must study and make recommendations regarding firearms, including, among other things:

- how investigations of an applicant seeking to purchase, rent, or transfer a regulated firearm are conducted;
- the best methods for obtaining the most recent and complete criminal history background check on an applicant; and
- new legislation and supplemental funding for additional staffing and equipment to improve the investigation process.

By December 1 each year, the Secretary of State Police must report findings and recommendations to the Governor and the General Assembly.

A member of the workgroup may not receive compensation but is entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

School Crisis Welfare Officers

DHR (now known as the Department of Human Services, or DHS) must provide the sheriff of each county at least one individual to work as a school crisis welfare officer to:

- investigate cases of potential violence in the local school system, as specified;

- assist schools in crisis response programs and in taking steps to prevent violence in the schools; and
- assist in the investigation and prosecution of violent crimes that occur in or near the schools within the jurisdiction.

A school crisis welfare officer must receive training with and participate in the Crisis Response System of the jurisdiction assigned. The Crisis Response System must coordinate with school crisis welfare officers from the local sheriff's office in each jurisdiction.

Current Law:

Handgun Qualification License

A handgun qualification license (HQL) authorizes a person to purchase, rent, or receive a handgun. A licensed firearms manufacturer, a specified active or retired law enforcement officer, a member or retired member of the U.S. Armed Forces or the National Guard, and a person purchasing, renting, or receiving an antique, curio, or relic firearm (as defined under federal law) are exempt from the requirements of the licensing provisions.

The Secretary of State Police must apply for a State and national criminal history records check for each applicant. As part of the application for a criminal history records check, the Secretary must submit one complete set of fingerprints of the applicant.

The application fee for an HQL is to cover administrative costs and may be up to \$50. The term of the license is 10 years. License renewal fees are set at up to \$20. Generally, the Secretary of State Police must issue an HQL to a person who (1) is at least 21 years old; (2) is a State resident; (3) has completed a firearms safety training course; and (4) is not prohibited by federal or State law from purchasing or possessing a handgun.

The Secretary may issue an HQL without an additional application or fee to a person who meets the requirements for the issuance of a handgun permit who does not already have an HQL.

Within 30 days after receiving a properly completed HQL application, the Secretary must provide (1) an HQL, if approved, or (2) a written denial of the application, including the reason the application was denied and a statement of the applicant's appeal rights regarding the decision.

Firearm Application

A person must submit a firearm application before the person purchases, rents, or transfers a regulated firearm. A firearm applicant must submit a firearm application to a licensed dealer or designated law enforcement agency and pay the required \$10 application fee. A firearm application must contain (1) the firearm applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification soundex number, occupation, and regulated firearm information for each regulated firearm to be purchased, rented, or transferred; (2) the date and time that the firearm applicant delivered the completed firearm application to the prospective seller or transferor; and (3) a copy of the applicant's HQL. In addition, a firearm application must contain a statement by the firearm applicant under the penalty of perjury that the firearm applicant:

- is at least age 21;
- has never been convicted of a disqualifying crime;
- has never been convicted of a violation classified as a common law crime and received a term of imprisonment of more than two years;
- is not a fugitive from justice or a habitual drunkard;
- is not addicted to a controlled dangerous substance or is not a habitual user;
- does not suffer from a mental disorder and have a history of violent behavior against the firearm applicant or another;
- has never been found incompetent to stand trial or not criminally responsible;
- has never been voluntarily admitted for more than 30 consecutive days to a facility;
- has never been involuntarily committed to a facility;
- is not under the protection of a guardian appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is not a respondent against whom a current non ex parte civil protective order has been entered or an order for protection has been issued by a court of another state or a Native American tribe and is in effect; and
- if younger than age 30 at the time of application, has not been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

On receipt of a firearm application, the Secretary of State Police must conduct an investigation to determine the truth or falsity of the information supplied and statements made in the firearm application. In conducting an investigation, the Secretary may request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, or the sheriff in a county not maintaining a police force.

The Secretary must disapprove a firearm application if:

- the Secretary determines that the firearm applicant supplied false information or made a false statement;
- the Secretary determines that the firearm application is not properly completed; or
- the Secretary receives written notification from the firearm applicant's licensed attending physician that the firearm applicant suffers from a mental disorder and is a danger to the firearm applicant or to another.

If the Secretary disapproves a firearm application, the Secretary must notify the prospective seller, lessor, or transferor in writing of the disapproval within seven days after the date that the executed firearm application is forwarded to the Secretary. After notifying the prospective seller, lessor, or transferor, the Secretary must notify the prospective purchaser, lessee, or transferee in writing of the disapproval.

Handgun Permit

Generally, an applicant for a handgun permit must, among other requirements, 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.

Current law requirements and background relating to the issuance of handgun permits is summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background**.

Crisis Response System

The Maryland Behavioral Health Crisis Response System (BHCRS) is required to (1) operate a statewide network utilizing existing resources and coordinating interjurisdictional services to develop efficient and effective crisis response systems to serve all individuals in the State, 24 hours a day and 7 days a week; (2) provide skilled clinical intervention to help prevent suicides, homicides, unnecessary hospitalizations, and arrests or detention, and to reduce dangerous or threatening situations involving individuals in need of behavioral health services; and (3) respond quickly and effectively to community crisis situations.

In each jurisdiction, a crisis communication center provides a single point of entry to the system and coordination with the local core service agency (CSA) or local behavioral health authority, police, emergency medical service personnel, and behavioral health providers.

Crisis communication centers *may* provide programs that include the following:

- a clinical crisis telephone line for suicide prevention and crisis intervention;
- a hotline for behavioral health information, referral, and assistance;
- clinical crisis walk-in services, including triage for initial assessment, crisis stabilization until additional services are available, linkage to treatment services and family and peer support groups, and linkage to other health and human services programs;
- critical incident stress management teams providing disaster behavioral health services, critical incident stress management, and an on-call system for these services;
- crisis residential beds to serve as an alternative to hospitalization;
- a community crisis bed and hospital bed registry, including a daily tally of empty beds;
- transportation coordination, ensuring transportation of patients to urgent appointments or to emergency psychiatric facilities;
- mobile crisis teams operating 24 hours a day and 7 days a week to provide assessments, crisis intervention, stabilization, follow-up, and referral to urgent care, and to arrange appointments for individuals to obtain behavioral health services;
- 23-hour holding beds;
- emergency psychiatric services;
- urgent care capacity;
- expanded capacity for assertive community treatment;
- crisis intervention teams with capacity to respond in each jurisdiction 24 hours a day and 7 days a week; and
- individualized family intervention teams.

The Behavioral Health Administration within the Maryland Department of Health (MDH) determines the implementation of BHCRS in collaboration with the local CSA or local behavioral health authority serving each jurisdiction. Additionally, BHCRS must conduct an annual survey of consumers and family members who have received services from the system. Annual data collection is also required on the number of behavioral health calls received by police, attempted and completed suicides, unnecessary hospitalizations, hospital diversions, arrests and detentions of individuals with behavioral health diagnoses, and diversion of arrests and detentions of individuals with behavioral health diagnoses.

State Expenditures: General fund expenditures increase by at least \$1,782,239 in fiscal 2019, which accounts for the bill's July 1, 2018 effective date. Future year expenditures reflect minimum ongoing costs.

Department of Human Services

Although DHS did not provide adequate information in response to requests for information regarding the fiscal and operational effects of the bill, the Department of Legislative Services (DLS) advises that general fund expenditures for DHS likely increase by at least \$1,782,239 in fiscal 2019, which accounts for the bill's July 1, 2018 effective date. This estimate reflects the cost of hiring 24 school crisis welfare officers (at \$74,260 each) to provide assistance to county sheriffs and schools, as required by the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	24
Salaries and Fringe Benefits	\$1,649,879
Operating Expenses	<u>132,360</u>
Minimum FY 2019 DHS Expenditures	\$1,782,239

Future year expenditures reflect salaries with annual increases and employee turnover and ongoing operating expenses.

This estimate assumes that DHS provides *one* school crisis welfare officer for each county and Baltimore City, the minimum required by the bill. It also assumes that existing DHS staff do not have sufficient capacity to serve as school crisis welfare officers. Finally, the estimate does not include any costs for training or specialized equipment that may be necessary for each school crisis welfare officer.

Department of State Police

Any expense reimbursements for workgroup members and staffing costs for DSP are assumed to be minimal and absorbable within existing budgeted resources. However, general fund expenditures may increase significantly for DSP to meet the bill's requirements regarding investigations for firearm applicants.

A licensee or person conducting a sale of a regulated firearm may not sell, rent, or transfer a regulated firearm until after seven days following the time a firearm application is executed by the firearm applicant. If the Secretary of State Police has not notified the licensee or person conducting a sale of the disapproval of a firearm application within the seven day period, the licensee or person conducting a sale may release the firearm to the applicant. In fiscal 2017, DSP received approximately 52,000 firearm applications and complied with the seven-day time period for approval and disapproval of each application.

In conducting an investigation for a firearm application, DSP electronically accesses State and national background records and court records for each applicant and, as necessary, requests information from law enforcement agencies in the State. This analysis assumes

that the current process of checking court records meets the bill's requirement for contacting the courts of the State.

The bill's requirement for DSP to contact the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, *and* the sheriff in a county not maintaining a police force for *each* applicant may result in an increase in general fund expenditures. If it is assumed that DSP is only required to contact the police chief for the *primary* law enforcement agency in each county and Baltimore City, then DSP can update its investigation process with existing budgeted resources and continue to meet deadlines for approval and disapproval of firearm applications. However, if DSP must contact each of the approximately 160 law enforcement agencies in the State for *each* firearm application, computer programming updates or additional personnel may become necessary over time in order to meet deadlines. Computer programming updates can likely be handled with minimal additional costs; however, if additional personnel become necessary, general fund expenditures increase significantly.

Chapter 427 of 2013 requires a mental health care facility to report to the National Instant Criminal Background Check System (NICS), through a secure portal approved by the Department of Public Safety and Correctional Services, the name and identifying information of a person admitted or committed to the facility, the date of admission or commitment, and the name of the facility to which the person was voluntarily admitted, if the person has been admitted to a facility for 30 consecutive days or more, or if the person has been involuntarily committed. Currently, DSP electronically accesses NICS for each firearm application.

Except for mental health information reported to NICS, DSP does not have access to mental health records, and, due to health record confidentiality laws, MDH and health care facilities are prohibited from sharing most health record information. Therefore, in order to access mental health information for an applicant, DSP currently has an arrangement with MDH in which DSP asks if an applicant has anything in the applicant's mental health record that would prohibit the applicant from possessing a firearm. MDH, without violating an applicant's health record confidentiality, responds to DSP with a "Yes" or a "No" and no additional information. This analysis assumes that access to NICS and the current arrangement between DSP and MDH meets the bill's requirement for DSP to contact health care facilities in the State for each applicant.

Maryland Department of Health

MDH did not provide substantive information to DLS in time for inclusion in this fiscal and policy note. Although it is possible that MDH could incur costs related to training school crisis welfare officers, it is assumed that the bill does not materially affect MDH finances or operations.

Local Expenditures: Because the bill requires that a school crisis welfare officer *be provided by DHS to the sheriff of each county*, this analysis assumes that school crisis welfare officers are State employees assigned to local sheriff's offices and not local employees. Thus, all personnel costs are borne by the State and not local governments. However, local expenditures for local boards of education may increase minimally to incorporate the officers into ongoing violence prevention efforts in the schools.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Montgomery County; Maryland State Department of Education; Department of Human Services; Department of State Police; Maryland Department of Health; 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 2017, the Department of State Police (DSP) received 4,327 new applications for handgun permits and 4,513 handgun permit renewal applications. DSP denied 411 applications in the same year. There are currently approximately 20,043 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 Federal Bureau of Investigation and approximately 90 days to process, investigate, and issue a permit.