



RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND ▪ GENERAL ▪ ASSEMBLY

2025 Session
HB0354

Criminal Law - Prohibitions on Wearing, Carrying, or Transporting a Handgun - Penalties

Bill Summary

This bill (1) establishes a “knowingly” intent element for a person wearing, carrying, or transporting a handgun, whether concealed or open, on the person; (2) repeals the prohibition on a person wearing, carrying, or transporting a handgun, whether concealed or open, about the person; and (3) repeals the rebuttable presumption that a person who transports a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State, transports the handgun knowingly. In addition, the bill alters the penalty for a person who is not otherwise prohibited by law from possessing a firearm if the person knowingly violates prohibitions against (1) wearing, carrying, or transporting a handgun, whether concealed or open, on the person; (2) wearing, carrying, or transporting a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State; or (3) violating either item (1) or (2) with a handgun loaded with ammunition. The penalty is a maximum \$1,000 fine instead of imprisonment for at least 30 days and up to five years and/or a fine of \$250 to \$2,500.

Racial Equity Impact Statement

The bill modifies the culpability standards for illegal possession of a handgun, repeals the prohibition on “constructive possession” of a handgun, and removes the imprisonment penalty for individuals who violate specified illegal possession provisions but are otherwise eligible to receive a handgun permit. The bill would allow many individuals to avoid incarceration for mere possession of a handgun and decrease penalties and convictions for nonviolent, and in some cases, unknowing offenders. The population of arrestees for handgun possession offenses under existing law is comprised overwhelmingly of Black individuals. Data from the Department of State Police (DSP) suggests that significant disproportionate and disparate impacts exist for the Black offender population arrested and convicted for illegal wearing, carrying, or transporting a handgun in a

vehicle. It is unclear whether and to what extent the bill's changes would reduce arrests for the specified violations.

Analysis

Under existing law, with specified exceptions, including possession of a handgun permit, a person may not (1) wear, carry, or transport a handgun, whether concealed or open, on or about the person; (2) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State; (3) violate items (1) or (2) listed above while on public school property in the State; (4) violate items (1) or (2) listed above with the deliberate purpose of injuring or killing another person; or (5) violate items (1) or (2) listed above with a handgun loaded with ammunition. There is a rebuttable presumption that a person who transports a handgun does so knowingly. A violator is guilty of a misdemeanor and subject to the penalties listed below. The subsequent offender provisions apply to previous convictions under § 4-203 (wearing, carrying, or transporting a handgun), § 4-204 (use of handgun or antique firearm in commission of crime), § 4-101 (dangerous weapons), and § 4-102 (deadly weapons on school property) of the Criminal Law Article, as shown in **Exhibit 1**.

Exhibit 1 Penalties for Specified Handgun Violations

<u>Offense</u>	<u>Penalties</u>
First-time Offender – No prior convictions under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	In General – Imprisonment for at least 30 days and up to 5 years and/or fine of \$250 to \$2,500
First-time Offender – Offense on Public School Property	Imprisonment for at least 90 days
Subsequent Offender – One prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	In General – Imprisonment for at least 1 year and up to 10 years
Subsequent Offender – Offense on Public School Property - One prior conviction	Imprisonment for at least 3 years and up to 10 years. Court may not impose less than the applicable minimum sentence
Subsequent Offender – More than one prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article	Imprisonment for at least 3 years and up to 10 years
Subsequent Offender on Public School Property – More than one prior conviction	Imprisonment for at least 5 years and up to 10 years

Offense

Penalties

Offense with Deliberate Purpose of Injuring or Killing Another Person

Imprisonment for at least 5 years and up to 10 years. Court may not impose less than the applicable minimum sentence.

First or Subsequent Offense with handgun loaded with ammunition

With required notice, court may not suspend any part of or impose less than the applicable mandatory minimum sentence. Person is not eligible for parole during mandatory minimum sentence.*

* Contains exception for § 4-305 of the Correctional Services Article (parole for an inmate at the Patuxent Institution).

Source: Department of Legislative Services

The bill establishes an intent requirement for the prohibition on transporting a handgun in a vehicle and for the prohibition on wearing, carrying, or transporting a handgun on one's person. It also repeals the prohibition on transporting a handgun near or "about" one's person. This change would likely reduce the potential liability for "constructive possession" of a handgun, which could occur in cases such as when an individual is in proximity of a handgun. The bill also reduces penalties for illegal possession for individuals who do not possess a handgun permit but would be eligible for a permit under existing law.

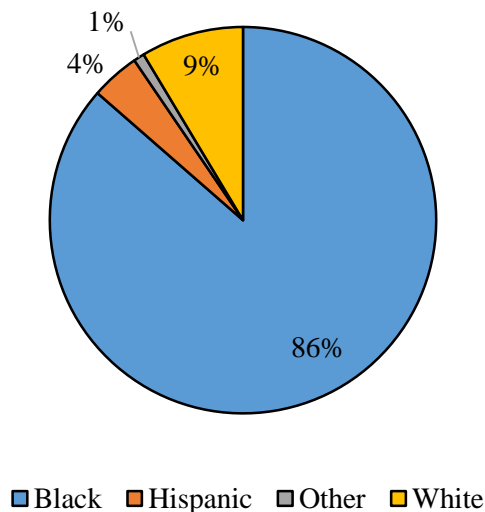
Impacts of the Bill

Statewide data suggests that Black individuals are overwhelmingly charged, arrested, and convicted for the handgun violations modified by the bill. The district and circuit courts report that for fiscal 2024, the total violations adjudicated for both illegal possession of a handgun on or about a person or in a vehicle (loaded and unloaded) totaled 8,847 and 5,582 violations, respectively. In contrast, only 78 convictions were handed down by the District Court and 173 in the circuit court, for a conviction rate of less than 2%. This data suggests that law enforcement arrests for these offenses rarely end in conviction despite the strict liability for wearing, carrying, or transporting a handgun on one's person and the presumption in statute that a person is knowingly transporting a handgun while in a vehicle. Despite the low conviction rate, drivers who are arrested for violating handgun possession laws must deal with the adverse consequences of having an arrest on their record as well as any potential time spent on probation.

Traffic Stop Arrests for Violating § 4-203 of the Criminal Law Article

Longitudinal data shows that Black drivers are disproportionately subjected to traffic stops by law enforcement. Traffic stops often lead to searches and arrests. According to data collected from DSP and reported by the Governor's Office of Crime Prevention and Policy, in 2023 there were a total of 221 traffic stop arrests for all offenses relating to § 4-203 of the Criminal Law Article, which includes various prohibitions on wearing, carrying, or transporting a handgun. The bill would apply an intent requirement to all of these offenses. **Exhibit 2** illustrates the percentage of traffic stop arrests by race and ethnicity. Of the 221 arrests, 86% of the arrestees were Black, 9% were white, 4% were Hispanic, and 1% were categorized as "other" by the reported agency.

Exhibit 2
Traffic Stop Arrests for Violating § 4-203 of the Criminal Law Article
2023



Source: Governor’s Office of Crime Prevention and Policy; Department of Legislative Services

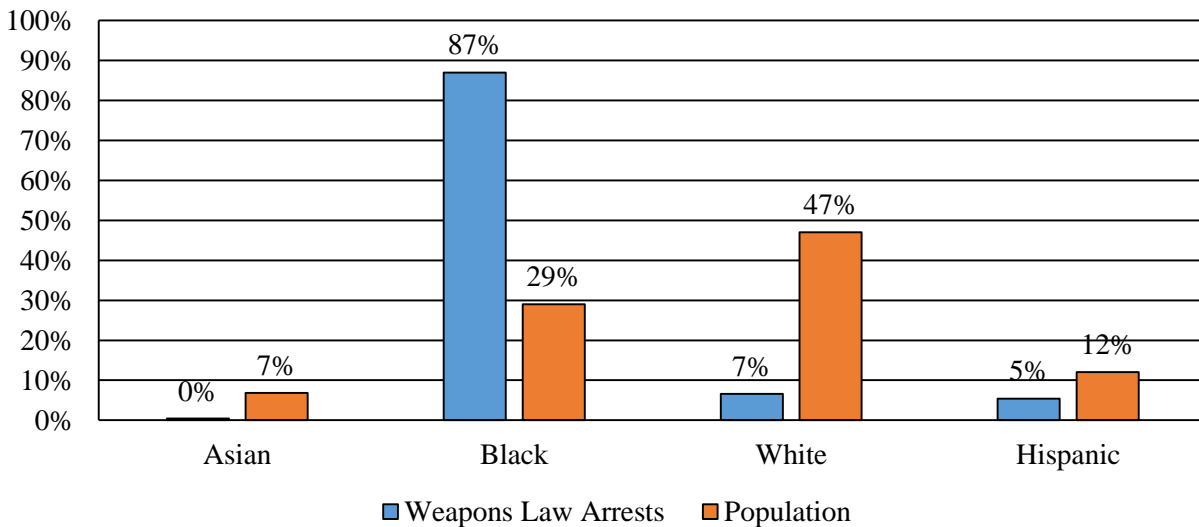
In addition, the data shows that 73% of the traffic stop arrests were due to searches by law enforcement.

Arrests for Handgun-related Weapons Law Violations

The DSP crime reporting program is currently in the process of moving from its current reporting system to the Federal Bureau of Investigation’s (FBI) National Incident Based Reporting System (NIBRS). Effective January 1, 2021, the FBI mandated this change in crime reporting from the existing Summary Reporting System (SRS) to NIBRS. The move to NIBRS is designed to improve the quality and quantity of crime data collected by law enforcement agencies. As of November 15, 2024, most law enforcement agencies in Maryland have completed the transition to NIBRS. This includes all primary agencies (county police/sheriff) in 22 counties and Baltimore City. The 2023 data cited in this analysis reflects 16 SRS reporting agencies with the remaining agencies reporting using NIBRS.

In 2023, the NIBRS reporting agencies reported approximately 1,700 arrests involving handgun-related weapons law violations. These violations are defined as the violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons. The arrest data demonstrate that Black individuals are significantly overrepresented in handgun-related weapons law violations relative to other racial and ethnic groups as they comprise 87% of total arrests. **Exhibit 3** shows the demographic breakdown in relation to each group’s share of the State’s overall population.

Exhibit 3
Arrests for Handgun-related Weapons Law Violations
2023

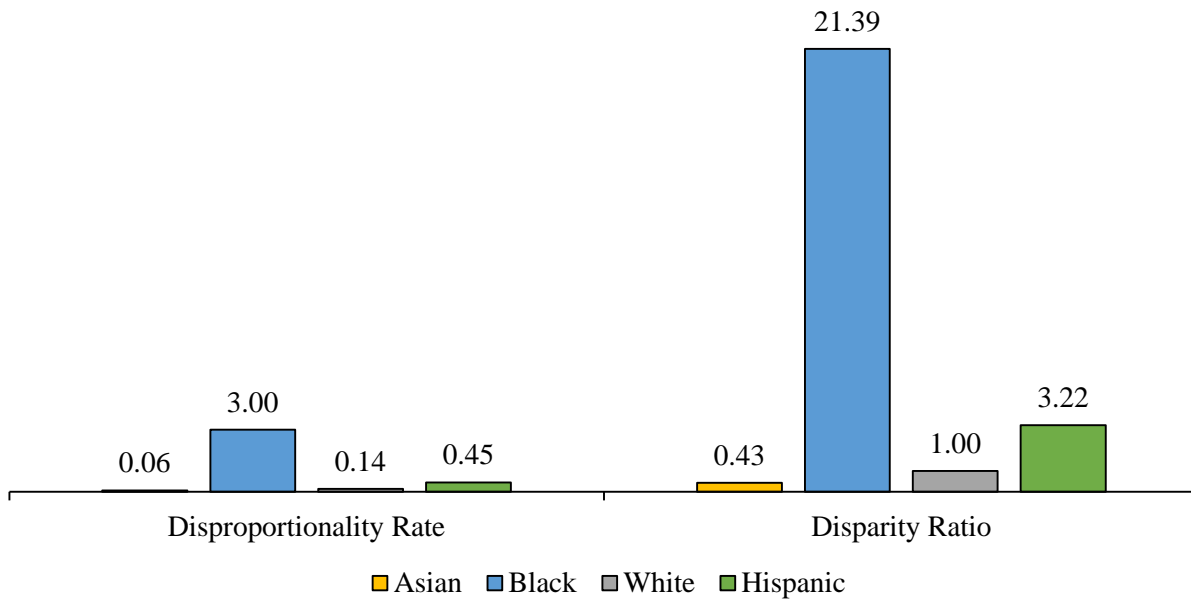


Source: Department of State Police; U.S. Census Bureau; Department of Legislative Services

Racial Disproportionality and Disparity in Arrests for Handgun-related Weapons Law Violations

When compared to their share of the overall State population, Black offenders are significantly overrepresented in arrests for handgun-related weapons law violations. **Exhibit 4** shows the disproportionality and disparity ratios by race and ethnicity from the DSP data. The disproportionality ratio for the Black population is 3.00. This means that Black individuals are three times more likely to be arrested for a handgun-related weapons law violation in Maryland given their share of the adult population in the State. The disproportionality ratios for the other racial and ethnic groups are significantly less than 1.00, which means these individuals are considerably less likely to be sentenced under the statute as compared to their share of the overall adult population.

Exhibit 4
Disproportionality Rate and Disparity Ratio
Arrests for Handgun-related Weapons Law Violations
2023



Source: Department of State Police; U.S. Census Bureau; Department of Legislative Services

The disparity ratio illustrates inequities in outcomes when comparing one or more racial or ethnic groups within a dataset to the white population within that same dataset. In this instance, the disparity ratio for Black arrestees is 21.39. This means that Black individuals are over 21 times more likely to be arrested for a handgun-related weapons law violation relative to their white peers. In addition, Hispanic individuals are more than 3 times as likely to be arrested for a handgun-related weapons law violation relative to their white peers.

Conclusion

The bill's removal of the incarceration penalty for specified individuals will decrease incarcerations for a subset of individuals eligible for a handgun permit. The exact impact of this change would depend on the proportion of individuals arrested for illegal carry or transport of a handgun who are otherwise eligible for a handgun permit in Maryland. There is no data currently available to determine the number of individuals impacted by the change. The bill's alterations to statutory culpability standards will likely decrease convictions for a population of arrestees that are comprised overwhelmingly of Black individuals, but no data is available to determine how this would impact the number and frequency of traffic stop and other arrests for illegal handgun

possession. Repeal of the constructive possession element of the handgun possession offense is the most likely portion of the bill that would impact arrests in a meaningful way. The magnitude of the impact would depend on how the change is implemented by law enforcement and prosecutors in the State.

Significant disproportionate and disparate impacts exist for the Black offender population and, in some cases, the Hispanic offender population arrested, charged, and convicted for illegally wearing, carrying, or transporting a handgun in a vehicle. The data discussed in this analysis does not explain the actual causes of the overrepresentation but is indicative of systemic inequities observed generally in statewide criminal justice data. Additional reliable data pertaining to (1) the percentage of convicted offenders under § 4-203 of the Criminal Law Article eligible for a handgun permit; (2) the demographics and distribution of traffic stop arrests by each separate offense in § 4-203 of the Criminal Law Article; (3) the number and percentage of those charged and arrested for constructive possession under the statute; and (4) the economic impact of the bill's fine-only penalty on racial and ethnic populations is needed to determine the specific equity impacts.

Information Sources: Department of State Police; Governor's Office of Crime Prevention and Policy; U.S. Census Bureau; Department of Legislative Services

Analysis by: Dr. Jasmón Bailey

Published: 02/20/2025

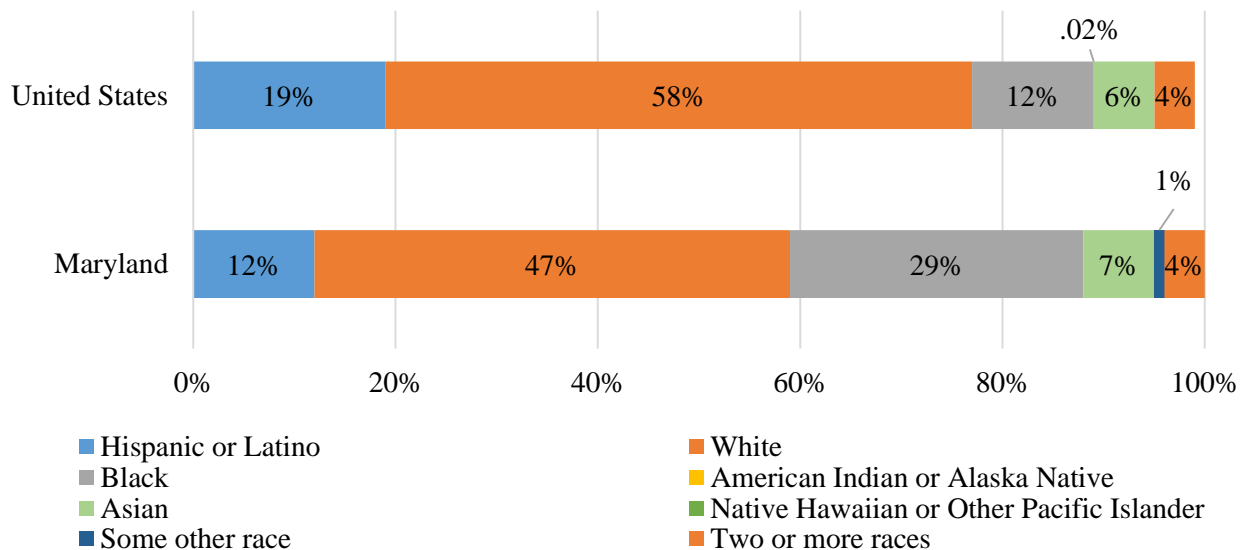
Appendix – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland’s 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland’s racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as “other” and “multiracial” (*i.e.*, two or more racial identities), which total 5% of the State’s population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report “white” as their racial group. Despite this decrease, non-Hispanic whites remain the largest race demographic group in the State at 47% of the State’s population.

Compared to the U.S. population overall, Maryland’s population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau’s [Diversity Index](#). As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national populations, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland’s Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State’s overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State’s population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020



Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.