

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 684
Judiciary

(Delegate Grammer)

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

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.

Fiscal Summary

State Effect: Minimal increase in general fund revenues due to the bill’s penalty provision. Minimal decrease in general fund expenditures due to the bill’s changes to penalty provisions.

Local Effect: Minimal decrease in local revenues and expenditures due to the bill’s changes to penalty provisions.

Small Business Effect: None.

Analysis

Current Law:

Handgun Permit: A person must have a handgun permit before the person carries, wears, or transports a handgun in the State. Existing statutory requirements and background relating to the issuance of handgun permits are summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background**.

Prohibitions: 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

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.

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.

Offense on Public School Property – Imprisonment for at least 3 years and up to 10 years.

Court may not impose less than the applicable minimum sentence.

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.*

Subsequent Offender – More than one prior conviction under §§ 4-203, 4-204, 4-101, or 4-102 of the Criminal Law Article

In General – Imprisonment for at least 3 years and up to 10 years.

Offense on Public School Property – Imprisonment for at least 5 years and up to 10 years.

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.

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).

State Revenues: The bill decreases the maximum fine from \$5,000 to \$1,000 for certain offenses. Information is not readily available about fines currently imposed in applicable cases, including the frequency with which fines are imposed and the monetary value of fines imposed. Assuming that the overall effect of the bill is a shifting of cases from the circuit courts to the District Court and more fines being imposed in these cases due to the elimination of the incarceration penalty, general fund revenues increase minimally from fines imposed in the District Court.

State Expenditures:

Department of Public Safety and Correctional Services

General fund expenditures decrease minimally due to fewer people being committed to State correctional facilities; the bill imposes a fine-only penalty for offenses currently subject to an incarceration penalty.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Administrative Office of the Courts

While the bill's penalty provision shifts some cases from the circuit courts to the District Court, the exact impact that the bill has on the distribution of court caseloads is unknown. However, the Administrative Office of the Courts does not anticipate a significant fiscal or operational impact on the trial courts under the bill. For context, **Exhibit 2** features data from the Maryland Judiciary on the number of violations (charges)

and convictions for specified handgun offenses in the District Court and the circuit courts for fiscal 2022 and 2023.

Exhibit 2
Violations and Convictions for Specified Handgun Offenses
Fiscal 2022 and 2023

	<u>FY 2022</u> <u>Violations</u>	<u>FY 2022</u> <u>Convictions</u>	<u>FY 2023</u> <u>Violations</u>	<u>FY 2023</u> <u>Convictions</u>
District Court				
CR § 4-203				
Handgun on person	4,302	42	4,656	46
CR § 4-203(a)(1)(v) - Loaded Handgun on Person	3,263	37	3,575	57
CR § 4-203				
Handgun in Vehicle	3,689	85	3,860	90
CR§ 4-203(a)(1)(v) - Loaded Handgun in Vehicle	3,095	65	3,183	104
Circuit Courts				
CR § 4-203				
Handgun on person	2,657	365	2,825	383
CR § 4-203(a)(1)(v) - Loaded Handgun on Person	1,482	134	1,196	198
CR § 4-203				
Handgun in Vehicle	2,235	319	2,546	324
CR§ 4-203(a)(1)(v) - Loaded Handgun in Vehicle	1,409	214	2,109	292

Source: Maryland Judiciary

Office of the Public Defender

The Office of Public Defender (OPD) does not provide legal representation in non-incarcerable criminal cases. Thus, the bill’s fine-only penalty for some offenses likely results in a decrease in caseloads for OPD. However, the magnitude of any such decrease cannot be reliably determined at this time. This analysis assumes that any resources expended on OPD cases eliminated under the bill will be redirected to other existing OPD cases.

Local Revenues: Revenues decrease minimally from fines imposed in circuit court cases that shift to the District Court under the bill.

Local Expenditures: Local incarceration expenditures decrease minimally due to the bill’s elimination of an incarceration penalty for some offenses. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. *Per diem* operating costs of local detention facilities have ranged from approximately \$90 to \$300 per inmate in recent years.

Additional Comments: The bill establishes a maximum fine of \$1,000 for a person who, with an unloaded handgun or a handgun loaded with ammunition, knowingly violates the prohibitions against (1) wearing, carrying, or transporting a handgun, whether concealed or open, on the person or (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. However, the bill also retains provisions under current law (1) prohibiting a court from imposing less than the applicable minimum sentence of imprisonment for 30 days and/or a fine of \$250 for these violations and (2) with respect to violations involving loaded handguns, prohibiting a court from suspending any part of the applicable minimum sentence and denying parole eligibility during the minimum sentence.

Furthermore, the bill specifies a definition of “firearm” for Title 4, Subtitle 2 of the Criminal Law Article. However, the subtitle mainly applies to handguns, and the items included in the definition of “firearm” are individually defined within specific provisions in the subtitle.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Howard and Prince George’s counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of State Police; 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 at least age 21 years or a member of the U.S. Armed Forces, the National Guard, or the uniformed services; (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 be on supervised probation for conviction of a crime punishable by imprisonment for one year or more, a violation of § 21-902(b) or (c) of the Transportation Article (driving while under the influence or driving while impaired), or violating a protective order under § 4-509 of the Family Law Article (failure to comply with interim or final protective order); (5) must not suffer from a mental disorder and have a history of violent behavior against the person or another; (6) must not have been involuntarily admitted for more than 30 consecutive days to a facility that provides treatment or other services for mental disorders; (7) must not be a respondent against whom a current non *ex parte* civil protective order has been entered under § 4-506 of the Family Law Article, a current extreme risk protective order has been entered under § 5-601 of the Public Safety Article, or any other type of current court order has been entered prohibiting the person from purchasing or possessing firearms; (8) must not exhibit a propensity for violence or instability, which may reasonably render possession of a handgun a danger to the applicant or another; (9) must have successfully completed, prior to application and each renewal, a specified firearms training course approved by the Secretary; (10) 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 (11) must not otherwise be prohibited by State or federal law from possessing a handgun.

The Secretary may not issue a handgun permit to a person who has been convicted on or after October 1, 2023, of a second or subsequent violation of § 4-104 of the Criminal Law Article (child access to firearms) or has been convicted on or after October 1, 2023, of a violation of that provision if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person. The Secretary also may not issue a handgun permit to a person who has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article for five years following the date of the conviction.

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 and federal firearm laws, home firearm safety, handgun mechanisms and operations, conflict de-escalation and resolution, anger management, and suicide prevention; and (3) a firearm qualification component that includes live-fire shooting exercise on a firing range and requires the applicant to demonstrate safe handling of a handgun and shooting proficiency with a handgun.

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 \$125; two years after the initial permit and every three years thereafter, a \$75 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 2023, the Department of State Police (DSP) received 64,724 new applications for handgun permits and 13,682 handgun permit renewal applications. DSP denied 2,258 applications in the same year. As of January 1, 2024, there are approximately 175,662 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 FBI and approximately seven days to process and issue a permit.