

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised
(Senator Smith)

Senate Bill 404

Judicial Proceedings

Rules and Executive Nominations

Criminal Law - Firearms - Exception to Trespass Prohibition

This bill establishes an exception to the prohibition against wearing, carrying, or transporting a firearm into the dwelling of another or onto the real property of another under § 6-411 of the Criminal Law Article for a person who has retired as a law enforcement official, as specified, and meets other specified criteria.

Fiscal Summary

State Effect: The bill is not anticipated to materially affect State finances or operations.

Local Effect: The bill is not anticipated to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: The bill establishes that the existing statutory prohibitions under § 6-411 of the Criminal Law Article do not apply to a person who has retired as a law enforcement official (in good standing from a law enforcement agency of the United States, the State or another state, or a local unit in the State or another state) if the firearm carried or possessed by the person is concealed from view under or within an article of the person's clothing, and:

- the person is authorized to carry a handgun under the State or federal law and the person is carrying the person's badge or credential in compliance with the applicable requirements; or

- the person possesses a valid permit to wear, carry, or transport a handgun issued by the Department of State Police under Title 5, Subtitle 3 of the Public Safety Article.

Current Law:

Entering or Trespassing into a Dwelling or onto Real Property While Wearing, Carrying, or Transporting a Firearm

Under § 6-411 of the Criminal Law Article, a person wearing, carrying, or transporting a firearm may not:

- enter or trespass in the dwelling of another unless the owner or the owner's agent has given express permission, either to the person or the public generally, to wear, carry, or transport a firearm inside the dwelling;
- enter or trespass on property unless the owner or the owner's agent has posted a clear and conspicuous sign indicating that it is permissible to wear, carry, or transport a firearm on the property; or
- enter or trespass on property unless the owner or the owner's agent has given the person express permission to wear, carry, or transport a firearm on the property.

The above prohibitions do not apply to:

- law enforcement officials or police officers;
- on-duty employees of a law enforcement agency authorized by the agency to possess firearms on duty or whose duty assignment involves the possession of firearms;
- members of the U.S. Armed Forces, the National Guard, or the uniformed services, as specified;
- correctional officers or wardens of a correctional facility in the State;
- the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other property interest that allows public access on or through the real property; or
- the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other property interest allowing access on or through the real property by the holder of the easement, right-of-way, servitude, or other property interest or a guest or assignee of the holder of the easement, right-of-way, servitude, or other property interest.

A person who willfully violates the above prohibitions is guilty of a misdemeanor and on conviction is subject to imprisonment for up to one year and/or a fine of up to \$1,000. A conviction under these provisions may not merge with a conviction for any other crime

based on the act establishing the violation. A sentence imposed under these provisions may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation.

Handgun Permits

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**.

Additional Information

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

Designated Cross File: HB 346 (Delegates Moon and Clippinger) - Judiciary.

Information Source(s): Baltimore, Carroll, Harford, and Queen Anne’s counties; Alcohol, Tobacco, and Cannabis Commission; Maryland Cannabis Administration; 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.