
By: **Prince George's County Delegation**

Introduced and read first time: February 5, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County - Correctional Officers - Handgun Permits**
3 **PG 311-99**

4 FOR the purpose of including certain cases of threats against current Prince George's
5 County correctional officers or their immediate families in the definition of
6 "good and substantial reason" for purposes of issuance of a permit to carry a
7 handgun; exempting current Prince George's County correctional officers from a
8 fee for an initial application, for a renewal or subsequent application, or for a
9 duplicate or modified permit for a handgun; making stylistic changes; and
10 generally relating to handgun permits.

11 BY repealing and reenacting, with amendments,
12 Article 27 - Crimes and Punishments
13 Section 36E
14 Annotated Code of Maryland
15 (1996 Replacement Volume and 1998 Supplement)

16 **Preamble**

17 WHEREAS, The General Assembly recognizes that the very nature of the
18 correctional officer occupation involves instances of threats to officers and the
19 officer's immediate family; now, therefore,

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article 27 - Crimes and Punishments**

23 36E.

24 (a) A permit to carry a handgun shall be issued within a reasonable time by
25 the Secretary of the State Police, upon application under oath therefor, to any person
26 whom the Secretary finds:

1 (1) Is eighteen years of age or older; and

2 (2) Has not been convicted of a felony or of a misdemeanor for which a
3 sentence of imprisonment for more than one year has been imposed or, if convicted of
4 such a crime, has been pardoned or has been granted relief pursuant to [Title 18, §
5 925(c) of the United States Code] 18 U.S.C. § 925(C); and

6 (3) Has not been committed to any detention, training, or correctional
7 institution for juveniles for longer than one year after an adjudication of delinquency
8 by a juvenile court; provided, however, that a person shall not be disqualified by
9 virtue of this paragraph [(3)] if, at the time of the application, more than ten years
10 has elapsed since his release from such institution; and

11 (4) Has not been convicted of any offense involving the possession, use,
12 or distribution of controlled dangerous substances; and is not presently an addict, an
13 habitual user of any controlled dangerous substance not under legitimate medical
14 direction, or an alcoholic; and

15 (5) Has, based on the results of investigation, not exhibited a propensity
16 for violence or instability which may reasonably render his possession of a handgun a
17 danger to himself or other law-abiding persons; and

18 (6) Has, based on the results of investigation, good and substantial
19 reason to wear, carry, or transport a handgun, provided however, that the phrase
20 "good and substantial reason" as used herein shall be deemed to include:

21 (I) [a] A finding that [such] THE permit is necessary as a
22 reasonable precaution against apprehended danger; OR

23 (II) A FINDING THAT THE PERMIT IS NECESSARY AS A REASONABLE
24 PRECAUTION FOR A CURRENT PRINCE GEORGE'S COUNTY CORRECTIONAL OFFICER
25 WHO HAS DOCUMENTED CASES OF THREATS AGAINST THE OFFICER OR A MEMBER
26 OF THE OFFICER'S IMMEDIATE FAMILY. HOWEVER, NO ADDITIONAL REPORTS OF
27 NEW THREATS ARE NEEDED FOR RENEWAL OF THE HANDGUN PERMIT.

28 (b) (1) Except as provided in paragraph (2) of this subsection, the Secretary
29 may charge a nonrefundable fee not to exceed \$75 for an initial application, \$50 for a
30 renewal or subsequent application, and \$10 for a duplicate or modified permit
31 payable at the time an application is filed. The fee may be paid with a personal check,
32 business check, certified check, or money order.

33 (2) The Secretary may not charge any of the following persons a fee for
34 an initial application, for a renewal or subsequent application, or for a duplicate or
35 modified permit for that handgun:

36 (i) A State, county, or municipal public safety employee who is
37 required to wear or carry a handgun as a condition of government employment; [or]

38 (II) A CURRENT PRINCE GEORGE'S COUNTY CORRECTIONAL
39 OFFICER; OR

1 [(ii)] (III) A retired law enforcement officer of the State or of a
2 county or municipal corporation of the State.

3 (3) Notwithstanding the above fees, the applicant shall submit to the
4 Department of State Police:

5 (i) A complete set of the applicant's legible fingerprints taken on
6 standard fingerprint cards; and

7 (ii) Payment for the cost of the fingerprint card record checks.

8 (c) A permit issued under this section shall expire on the last day of the
9 holder's birth month following two years after its issuance. The permit may be
10 renewed, upon application and payment of the renewal fee, for successive periods of
11 three years each, if the applicant, at the time of application, possesses the
12 qualifications set forth in this section for the issuance of a permit.

13 (d) The Secretary may, in any permit issued under this section, limit the
14 geographic area, circumstances, or times during the day, week, month, or year in or
15 during which the permit is effective. The Secretary may reduce the cost of the permit
16 accordingly, if the permit is granted for one day only and at one place only.

17 (e) Any person to whom a permit shall be issued or renewed shall carry such
18 permit in his possession every time he carries, wears, or transports a handgun. A
19 permit issued pursuant to this section shall be valid for any handgun legally in the
20 possession of the person to whom the permit was issued.

21 (f) The Secretary may revoke any permit issued or renewed at any time upon
22 a finding that (i) the holder no longer satisfies the qualifications set forth in
23 subsection (a), or (ii) the holder of the permit has violated subsection (e) hereof. A
24 person holding a permit which is revoked by the Secretary shall return the permit to
25 the Secretary within ten days after receipt of notice of the revocation. Any person who
26 fails to return a revoked permit in violation of this section shall be guilty of a
27 misdemeanor, and, upon conviction, shall be fined not less than \$100 or more than
28 \$1,000, or be imprisoned for not more than one year, or both.

29 (g) (1) Any person whose application for a permit or renewal of a permit has
30 been rejected or whose permit has been revoked or limited may request the Secretary
31 to conduct an informal review by filing a written request within 10 days after receipt
32 of written notice of the Secretary's initial action.

33 (2) The informal review may include a personal interview of the
34 applicant and is not subject to the Administrative Procedure Act.

35 (3) Pursuant to the informal review, the Secretary shall sustain, reverse,
36 or modify the initial action taken and notify the applicant of the decision in writing
37 within 30 days after receipt of the request for informal review.

1 (4) Institution of proceedings under this section is within the discretion
2 of the applicant and is not a condition precedent to institution of proceedings under
3 subsection (h) of this section.

4 (h) (1) There is created a Handgun Permit Review Board as a separate
5 agency within the Department of Public Safety and Correctional Services. The Board
6 shall consist of five members appointed from the general public by the Governor with
7 the advice and consent of the Senate of Maryland and shall hold office for terms of
8 three years. The members shall hold office for a term of one, two, and three years,
9 respectively, to be designated by the Governor. After the first appointment, the
10 Governor shall annually appoint a member of the Board in the place of the member
11 whose term shall expire. Members of the Board shall be eligible for reappointment. In
12 case of any vacancy in the Board, the Governor shall fill the vacancy by the
13 appointment of a member to serve until the expiration of the term for which the
14 person had been appointed. Each member of the Board shall receive per diem
15 compensation as provided in the budget for each day actually engaged in the
16 discharge of his official duties as well as reimbursement, in accordance with the
17 Standard State Travel Regulations, for all necessary and proper expenses.

18 (2) Any person whose application for a permit or renewal of a permit has
19 been rejected or whose permit has been revoked or limited may request the Board to
20 review the decision of the Secretary by filing a written request for review with the
21 Board within ten days after receipt of written notice of the Secretary's final action.
22 The Board shall, within 90 days after receipt of the request, either review the record
23 developed by the Secretary, or conduct a hearing. In conducting its review of the
24 decision of the Secretary, the Board may receive and consider any additional evidence
25 submitted by any party. Based upon its consideration of the record, and any
26 additional evidence, the Board shall either sustain, reverse or modify the decision of
27 the Secretary. If the action taken by the Board results in the rejection of an
28 application for a permit or renewal of a permit or the revocation or limitation of a
29 permit, the Board shall submit in writing to that person the reasons for the action
30 taken by the Board.

31 (3) Any hearing and any subsequent proceedings of judicial review shall
32 be conducted in accordance with the provisions of Title 10, Subtitle 2 of the State
33 Government Article; provided, however, that no court of this State shall order the
34 issuance or renewal of a permit or alter any limitations on a permit pending final
35 determination of the proceeding.

36 (4) Any person whose application for a permit or renewal of a permit has
37 not been acted upon by the Secretary within 90 days after the application was
38 submitted, may request the Board for a hearing by filing a written request for such a
39 hearing with the Board.

40 (i) Notwithstanding any other provision of this subheading, the following
41 persons may, to the extent authorized prior to March 27, 1972, and subject to the
42 conditions specified in this subsection and subsection (j) hereof, continue to wear,
43 carry, or transport a handgun without a permit:

1 (1) Holders of special police commissions issued under Title 4, Subtitle 9
2 of Article 41 of the Annotated Code of Maryland, while actually on duty on the
3 property for which the commission was issued or while traveling to or from such duty;

4 (2) Uniformed security guards, special railway police, and watchmen
5 who have been cleared for such employment by the Department of State Police, while
6 in the course of their employment or while traveling to or from the place of
7 employment;

8 (3) Guards in the employ of a bank, savings and loan association,
9 building and loan association, or express or armored car agency, while in the course of
10 their employment or while traveling to or from the place of employment; and

11 (4) Private detectives and employees of private detectives previously
12 licensed under former Article 56, § 90A of the Code, while in the course of their
13 employment or while traveling to or from the place of employment.

14 (j) Each person referred to in subsection (i) hereof shall, within one year after
15 March 27, 1972, make application for a permit as provided in this section. Such
16 application shall include evidence satisfactory to the Secretary of the State Police that
17 the applicant is trained and qualified in the use of handguns. The right to wear, carry,
18 or transport a handgun provided for in subsection (i) hereof shall terminate at the
19 expiration of one year after March 27, 1972, if no such application is made, or
20 immediately upon notice to the applicant that his application for a permit has not
21 been approved.

22 (k) As used in this section, Secretary means the Secretary of the State Police,
23 acting directly or through duly authorized officers and agents of the Secretary.

24 (l) It is unlawful for a person to whom a permit has been issued or renewed to
25 carry, wear, or transport a handgun while he is under the influence of alcohol or
26 drugs. A person violating this subsection is guilty of a misdemeanor, and upon
27 conviction he shall be fined \$1,000 or be imprisoned for not more than one year or
28 both.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 1999.