
By: **Senator Mooney**
Introduced and read first time: January 11, 2002
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Handgun Permits - Victims of Domestic Violence**

3 FOR the purpose of requiring the Secretary of the State Police, on application, to
4 issue without investigation or further action a permit to carry a handgun to
5 certain victims of domestic violence; requiring applicants for a permit to meet
6 certain requirements; providing for the term and renewal of a permit; requiring
7 a domestic violence victim who is issued a permit to notify the Secretary of
8 certain criminal charges and convictions or certain medical treatment; defining
9 a certain term; and generally relating to the issuance of a permit to carry a
10 handgun to victims of domestic violence.

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 2001 Supplement)

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

18 **Article 27 - Crimes and Punishments**

19 36E.

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

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

24 (2) Has not been convicted of a felony or of a misdemeanor for which a
25 sentence of imprisonment for more than one year has been imposed or, if convicted of
26 such a crime, has been pardoned or has been granted relief pursuant to Title 18, §
27 925(c) of the United States Code; and

28 (3) If the person is less than 30 years of age and who has not been:

1 (i) Committed to any detention, training, or correctional
2 institution for juveniles for longer than one year after an adjudication of delinquency
3 by a juvenile court; or

4 (ii) Adjudicated delinquent by a juvenile court for:

5 1. A crime of violence;

6 2. Any violation classified as a felony in this State; or

7 3. Any violation classified as a misdemeanor in this State
8 that carries a statutory penalty of more than 2 years; and

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

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

16 (6) Has, based on the results of investigation, good and substantial
17 reason to wear, carry, or transport a handgun, provided however, that the phrase
18 "good and substantial reason" as used herein shall be deemed to include a finding
19 that such permit is necessary as a reasonable precaution against apprehended
20 danger.

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

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

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

31 (ii) A retired law enforcement officer of the State or of a county or
32 municipal corporation of the State.

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

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

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

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

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

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

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

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

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

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

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

35 (h) (1) There is created a Handgun Permit Review Board as a separate
36 agency within the Department of Public Safety and Correctional Services. The Board
37 shall consist of five members appointed from the general public by the Governor with
38 the advice and consent of the Senate of Maryland and shall hold office for terms of
39 three years. The members shall hold office for a term of one, two, and three years,
40 respectively, to be designated by the Governor. After the first appointment, the
41 Governor shall annually appoint a member of the Board in the place of the member

1 whose term shall expire. Members of the Board shall be eligible for reappointment. In
2 case of any vacancy in the Board, the Governor shall fill the vacancy by the
3 appointment of a member to serve until the expiration of the term for which the
4 person had been appointed. Each member of the Board shall receive per diem
5 compensation as provided in the budget for each day actually engaged in the
6 discharge of his official duties as well as reimbursement, in accordance with the
7 Standard State Travel Regulations, for all necessary and proper expenses.

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

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

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

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

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

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

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

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

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

15 (K) (1) IN THIS SUBSECTION "DOMESTIC VIOLENCE VICTIM" MEANS A
16 PERSON FOR WHOM A COURT HAS ISSUED AN EX PARTE ORDER OR PROTECTIVE
17 ORDER UNDER TITLE 4, SUBTITLE 5 OF THE FAMILY LAW ARTICLE OR A PEACE ORDER
18 OR TEMPORARY PEACE ORDER UNDER TITLE 3, SUBTITLE 15 OF THE COURTS
19 ARTICLE.

20 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO
21 THE CONTRARY, ON APPLICATION BY A DOMESTIC VIOLENCE VICTIM, THE
22 SECRETARY, WITH NO FURTHER INVESTIGATION OR ACTION, SHALL ISSUE A
23 HANDGUN PERMIT TO THE DOMESTIC VIOLENCE VICTIM IF THE DOMESTIC
24 VIOLENCE VICTIM:

25 (I) HAS NOT BEEN CONVICTED OF A FELONY OR MISDEMEANOR
26 FOR WHICH A SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR HAS BEEN
27 IMPOSED; OR

28 (II) HAS NOT SPENT MORE THAN 30 CONSECUTIVE DAYS IN A
29 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A
30 PHYSICIAN'S CERTIFICATE IS:

31 1. ISSUED WITHIN 30 DAYS BEFORE THE DATE OF THE
32 APPLICATION FOR THE HANDGUN PERMIT; AND

33 2. ATTACHED TO THE APPLICATION, CERTIFYING THAT THE
34 APPLICANT IS CAPABLE OF POSSESSING A HANDGUN WITHOUT UNDUE DANGER TO
35 THE APPLICANT OR TO ANOTHER.

36 (3) A PERMIT ISSUED UNDER THIS SUBSECTION:

37 (I) IS VALID FOR AS LONG AS THE EX PARTE ORDER, PROTECTIVE
38 ORDER, OR PEACE ORDER IS IN EFFECT; AND

1 (II) MAY BE RENEWED ON ISSUANCE OF A NEW EX PARTE ORDER,
2 PROTECTIVE ORDER, OR PEACE ORDER.

3 (4) (I) THE SECRETARY SHALL SET THE PERMIT FEE.

4 (II) A RENEWAL OF A PERMIT SHALL BE WITHOUT CHARGE.

5 (5) (I) A DOMESTIC VIOLENCE VICTIM WHO HAS BEEN ISSUED A
6 PERMIT UNDER THIS SUBSECTION SHALL NOTIFY THE SECRETARY OF:

7 1. ANY CRIMINAL CHARGES FILED AGAINST THE DOMESTIC
8 VIOLENCE VICTIM INVOLVING A FELONY OR A MISDEMEANOR FOR WHICH THE
9 PENALTY MAY BE IMPRISONMENT FOR MORE THAN 1 YEAR; OR

10 2. TREATMENT OF MORE THAN 30 CONSECUTIVE DAYS IN A
11 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER.

12 (II) A DOMESTIC VIOLENCE VICTIM SHALL NOTIFY THE SECRETARY
13 OF ANY CONVICTION FOR A FELONY OR A MISDEMEANOR FOR WHICH A SENTENCE
14 OF IMPRISONMENT FOR MORE THAN 1 YEAR IS IMPOSED.

15 (III) THE SECRETARY SHALL REVOKE THE PERMIT OF A DOMESTIC
16 VIOLENCE VICTIM:

17 1. AGAINST WHOM CRIMINAL CHARGES HAVE BEEN FILED
18 OR WHO HAS BEEN CONVICTED OF A FELONY OR A MISDEMEANOR FOR WHICH A
19 SENTENCE OF IMPRISONMENT FOR MORE THAN 1 YEAR HAS BEEN IMPOSED; OR

20 2. WHO HAS SPENT MORE THAN 30 CONSECUTIVE DAYS IN A
21 MEDICAL INSTITUTION FOR TREATMENT OF A MENTAL DISORDER, UNLESS A
22 PHYSICIAN CERTIFIES THAT THE DOMESTIC VIOLENCE VICTIM IS CAPABLE OF
23 POSSESSING A HANDGUN WITHOUT UNDUE DANGER TO THE DOMESTIC VIOLENCE
24 VICTIM OR ANOTHER.

25 [(k)] (L) As used in this section, Secretary means the Secretary of the State
26 Police, acting directly or through duly authorized officers and agents of the Secretary.

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

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2002.