

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**

Senate Bill 132

(Senator Mooney)

Judicial Proceedings

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**Handgun Permits - Victims of Domestic Violence**

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This bill requires the Secretary of State Police, on application, to issue without investigation or further action a permit to carry a handgun to a victim of domestic violence who is issued an ex parte order, protective order, or peace order. The bill requires each such permit applicant to meet specified requirements and provides for the term and renewal of a permit. The bill also requires a domestic violence victim who is issued a permit to notify the Secretary of specified criminal charges and convictions or specified medical treatment.

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**Fiscal Summary**

**State Effect:** Minimal. It is assumed that the State Police could handle any increase in handgun applications with existing budgeted resources and that any associated revenues from application fees would not be significant.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Bill Summary:** Under the bill, the Secretary of State Police, with no further investigation or action, must issue a handgun permit to a domestic violence victim if that victim: (1) has not been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or (2) has not spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a

physician's certificate is issued within 30 days before the permit application date that certifies that the applicant is capable of possessing a handgun without undue danger to the applicant or to another.

The bill provides that a permit issued under these provisions is valid for as long as the ex parte order, protective order, or peace order is in effect, and may be renewed on issuance of a new order.

The Secretary is required to set the initial permit fee. Permit renewals are required to be handled without a fee.

A person who has been issued a permit under these provisions must notify the Secretary of any criminal charges filed against the person, or convictions, involving a felony or a misdemeanor for which the penalty may be imprisonment for more than 1 year, or treatment of more than 30 consecutive days in a medical institution for treatment of a mental disorder.

The Secretary is required to revoke the permit of a person issued a permit under these provisions: (1) against whom criminal charges have been filed or who has been convicted of a felony or a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or (2) who has spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician certifies that the person is capable of possessing a handgun without undue danger to the person or to another.

**Current Law:** A person may not wear, carry, or transport a handgun unless the person qualifies under an express exemption or has been issued a permit to carry a handgun. Current exemptions include law enforcement personnel of the United States, of Maryland, or of any county or city of Maryland.

To be issued a permit to carry a handgun by the Secretary of State Police, an applicant: (1) must be 18 years of age or older; (2) must not have been convicted of a felony or misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed or, if convicted, must have been pardoned or been granted relief under federal law; (3) if the person is younger than 30 years of age, must not have been committed to a facility for juveniles for longer than 1 year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than 2 years; (4) 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; (5) must not exhibit a propensity for violence or instability which may reasonably render possession of a handgun a danger to himself or other law-abiding

person; and (6) must have a good and substantial reason to wear, carry, or transport a handgun. “Good and substantial reason” includes a finding that the permit is necessary as a reasonable precaution against apprehended danger.

**Background:** Temporary ex parte orders and final protective orders represent two stages of the same process. A person who seeks protection from domestic violence may file a petition with the court for relief. An ex parte hearing takes place and if there are reasonable grounds to believe abuse has occurred, a temporary ex parte order is issued. Within seven days, a protective order hearing takes place and the respondent has a chance to answer the charges. If there is clear and convincing evidence of abuse, a final protective order is granted. The maximum period for duration of a final protective order is one year. According to the Administrative Office of the Courts (AOC), most final protective orders are issued for a period of one year.

An individual who is not eligible for relief under the domestic violence provisions and who can show a legitimate reason to fear harm from another individual may apply for a peace order requiring the other individual to stay away.

A peace order may include any or all of the following relief:

- order the respondent to refrain from committing or threatening to commit various acts that may cause the victim bodily harm or places the victim in imminent fear of such harm, or involve assault, rape or sexual offense, false imprisonment, harassment, stalking, trespass, or malicious destruction of property;
- order the respondent to refrain from contacting, attempting to contact, or harassing the victim;
- order the respondent to refrain from entering the residence of the victim;
- order the respondent to remain away from the place of employment, school, or temporary residence of the victim; and
- direct the respondent or the victim to participate in professionally supervised counseling.

A peace order must contain only the relief minimally necessary to protect the victim and may be effective for up to six months. A court may impose reasonable court costs against a respondent, or the respondent’s parent, guardian, or custodian.

For fiscal 2001 (the most recent data available from AOC), the following table shows the judicial activity with regard to petitions for protection:

<u>Jurisdiction</u>	<u>Ex Parte Hearings</u>	<u>Ex Parte Orders Granted</u>	<u>Protective Order Hearings</u>	<u>Protective Orders Granted</u>	<u>Peace Order Hearings</u>	<u>Peace Orders Granted</u>
District Court	22,097	14,984	14,855	7,210	7,085	3,750
Circuit Court	3,835	2,537	2,897	1,288	5,651	100
Total	2,5932	17,521	17,752	8,498	12,736	3,850

**State Fiscal Effect:** Unless disqualified under current law provisions, victims of domestic violence are not now barred from seeking handgun permits. While the incidence of domestic violence (and the issuance of various related protective orders) is high, the rate at which victims may seek to obtain handgun permits under the provisions of this bill cannot be reliably predicted. It is assumed that any such increase in applications would arise mainly from those persons who are now otherwise qualified for a permit, but who are discouraged from seeking a permit due to a disinclination to be subject to background investigation by the State Police.

It is assumed that the bill's changes will lead to a small but indeterminate number of additional handgun permit applications for which the State Police would be limited in conducting investigations relating to the application. Any potential increase may not be any more significant than the variations in applications that now occur from year to year. Accordingly, the State Police should be able to handle the increased applications arising from this bill with existing budgeted resources.

Legislative Services notes that the State Police predicts that this bill would lead to handgun applications from 30,500 persons annually who have protective orders granted, and would require additional expenditures of about \$1.6 million a year including additional personnel. Revenues of about \$1.4 million from initial handgun application fees are also predicted. Legislative Services believes such a scenario to be highly unlikely.

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts, District Court), Department of State Police, Department of Public Safety and Correctional Services

(Information Technology and Communications Division), Department of Legislative Services

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