

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

House Bill 859

(Delegate Dwyer, *et al.*)

Judiciary

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**Citizens' Protection Act of 2004**

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This bill alters current law provisions relating to handgun permits in Maryland.

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**Fiscal Summary**

**State Effect:** General fund revenues would decrease by about \$9,900 in FY 2005, and general fund expenditures would increase by \$381,500. Out-years reflect annualization, inflation, and renewal automobile purchases.

(in dollars)	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
GF Revenue	(\$9,900)	(\$12,700)	(\$12,700)	\$22,000	\$132,200
GF Expenditure	381,500	281,700	287,500	363,600	299,200
Net Effect	(\$391,400)	(\$294,400)	(\$300,200)	(\$341,600)	(\$167,000)

*Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Meaningful. It is assumed that this bill would lead to significantly increased handgun sales in the State.

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**Analysis**

**Bill Summary:** This bill eliminates the requirements that a person have a “good and substantial reason” for getting a handgun permit and not exhibit “a propensity for violence or instability.” The bill also adds the following qualifications to the findings by which (together with existing qualifications) a permit must be issued to an applicant that: (1) is a resident of the U.S.; (2) has a desire to wear, carry, or transport a handgun for

lawful self-defense, rather than a possible finding that the permit is necessary as a reasonable precaution against apprehended danger; (3) has demonstrated a competence with a handgun by certain standards; (4) has no physical infirmity preventing safe handling of a handgun; and (5) submits to the State Police, in person, a permit application that includes specified information, including certification that the applicant meets all legal criteria and conditions to be issued the permit.

The bill prohibits permits for people who have been in-patient psychiatric patients for more than three days or have been convicted of sex crimes, spousal assault, or child abuse. The bill eliminates a requirement that handgun permit applicants pay for “fingerprint card record checks.”

In addition, the Department of State Police (DSP) is required to issue a permit within 90 days, must approve handgun courses, and may not place restrictions on handgun permits. Fees, fines, and permit durations are also altered so that: (1) the cost of a new application is increased from \$75 to \$80; (2) permit renewal fees are decreased from \$50 to \$25; (3) the permit renewal cycle is increased from three years to four years; (4) the permit duplication fee is increased from \$10 to \$15; and (5) a late fee of \$15 is authorized to be charged. The bill also allows a person with a valid handgun permit from another state to carry a handgun in Maryland.

The bill may not be construed to require the registration, documentation, or provision of serial numbers of any handgun owned by the holder of a permit. However, the bill requires the Secretary of State Police to maintain an automated listing of holders of permits that must be available, upon request, at all times to all law enforcement agencies only.

The bill establishes that possession of a valid permit issued under the bill will constitute sufficient evidence of a background check required under federal law.

The bill specifically allows a permit holder to carry a handgun on the permit holder's person, with the exception of specified places, and requires the handgun to be kept hidden from sight unless it is being used in a lawful manner.

The provisions of the bill apply to the reissue or replacement of any permit to wear, carry, or transport a handgun that was originally issued under the law prior to the October 1, 2004 effective date of the bill.

**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 on-duty law enforcement personnel of the U.S., of Maryland, or of any county or city in 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 one 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 one year or adjudicated delinquent for a crime of violence, a felony, or misdemeanor that carries a statutory penalty of more than two 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.

A handgun permit application costs \$75; two years after the initial permit, a \$50 renewal fee is due and every three years thereafter.

**Background:** Federal law does not regulate the carrying of concealed weapons. Currently, 43 states permit citizens to carry concealed weapons with a permit under certain circumstances. Details of concealed weapons laws vary greatly among localities, but most approaches fall into two categories. One of these categories is a discretionary system called “may issue” licensing, where legal authorities grant licenses only to those citizens who can establish a compelling need for carrying a concealed handgun. The other system is a nondiscretionary one called “shall issue” licensing. Under this system, legal authorities must provide a license to any applicant who meets specific criteria. Thirty-two states have enacted “shall issue” laws. Eleven states have “may issue” laws. Maryland’s current law is a “may issue” law because law enforcement has the discretion to issue permits. Five states (and the District of Columbia) prohibit the carrying of concealed weapons by private citizens: Illinois, Kansas, Nebraska, Ohio, and Wisconsin. Alaska and Vermont do not require a permit to carry a concealed weapon.

As of December 2001, there were approximately 12,000 active handgun permits in Maryland. The State Police issues an average of 2,204 initial handgun permits annually. There are about 4,000 annual renewals of permits based on the current three-year renewal cycle. It currently takes an average 45 to 60 days to receive the results of a national criminal history records check from the Federal Bureau of Investigation (FBI).

**State Fiscal Effect:** The State Police estimate that elimination of the requirements that a person have a “good and substantial reason” for carrying a firearm and not show a “propensity for violence or instability,” and eliminating restrictions on permits, will double the annual applications.

Assuming that under the bill an additional 2,204 initial permit applications are received (for a total of 4,408 annually) and one-third (4,000) of existing permits will be renewed (until all current three-year permits expire), general fund revenues attributable to the State Police for handgun permits would decrease by \$9,945 in fiscal 2005 accounting for the bill’s effective date. There would also be a net revenue decrease of \$12,660 in fiscal 2006 and 2007. Beginning in fiscal 2008, the net effect would be revenue increases: \$22,040 in fiscal 2008 and \$132,240 in fiscal 2009. After fiscal 2008, all permit revenue would derive from the new permitting cycle.

Although initial permit and renewal applications are estimated to remain relatively constant for the next several years, Legislative Services assumes that at some unknown time in the future, handgun permit applications will reach a saturation point. However, any such leveling off of permit applications cannot be reliably quantified.

The total maximum cost of criminal history records checks and fingerprinting is \$52, which includes State and national background checks. Maryland’s Criminal Justice Information System (CJIS) Central Repository is authorized by law to collect the \$18 fee established for Maryland criminal history records checks. There is also normally a \$10 fee for fingerprint cards (\$5 for each hand). The FBI charges a fee of \$24 for a national criminal history records check. The CJIS Central Repository must collect the fee from the applicant, or other payer, and reimburse the FBI through that agency’s monthly billing.

General fund expenditures could increase by an estimated \$381,529 in fiscal 2005, which accounts for the bill’s October 1, 2004 effective date. This estimate reflects the cost to hire two full time troopers, one civilian data device operator, and one office secretary to process and issue the additional initial handgun permit applications, review and issue renewal permits, and prepare information relating to hearings, and perform the functions associated with handgun instructor certifications. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Salaries and Fringe Benefits	\$243,746
Other Operating Expenses	<u>137,783</u>
<b>Total FY 2005 Administrative Expenditures</b>	<b>\$381,529</b>

Future year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) trooper automobile replacement costs in fiscal 2008.

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## **Additional Information**

**Prior Introductions:** Similar bills have been introduced in recent years. HB 605 of 2002 and HB 806 of 2001 each received an unfavorable report from the House Judiciary Committee. In 2000, HB 597 was not reported from the House Judiciary Committee. In 1999, HB 736 received an unfavorable report from the House Judiciary Committee.

**Cross File:** None.

**Information Source(s):** Department of State Police, Department of Legislative Services

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