

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 618
Judiciary

(Delegate Simmons, *et al.*)

Judicial Proceedings

Task Force to Study Access of Individuals with Mental Illness to Regulated
Firearms

This bill establishes a Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms. The task force must (1) study the adequacy of State laws and policies relating to the access of individuals with a history of mental illness to regulated firearms and the access of law enforcement officers to mental health records; (2) consider whether existing law adequately protects the public, as well as the civil rights of individuals with mental illness, and make recommendations as appropriate; and (3) consider whether, and to what extent there should be limits on the access of individuals with a history of mental illness to regulated firearms, and the State should expand access of law enforcement officers to certain mental health records. The task force will be staffed by the Governor's Office of Crime Control and Prevention (GOCCP). The task force must report its findings and recommendations by December 31, 2012.

The bill takes effect June 1, 2012, and terminates May 31, 2013.

Fiscal Summary

State Effect: Any expense reimbursements for task force members and staffing costs for GOCCP are assumed to be minimal and absorbable within existing budgeted resources.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Maryland State Police regulates firearms and firearms dealer licensees under provisions of the Public Safety Article. The term “firearm” means a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive or the frame or receiver of such a weapon. It includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

A regulated firearm is any handgun or any of the 45 assault weapons (or copies) identified under Title 5 of the Public Safety Article. A person may not possess a regulated firearm if the person was convicted of a crime of violence or a violation of specified controlled dangerous substances offenses. A violator is guilty of a felony and subject to a nonsuspendable, nonparolable mandatory minimum sentence of five years. Each violation of this prohibition is a separate offense. Chapter 164 of 2011 similarly prohibits the possession of a rifle or a shotgun if a person was previously convicted of a crime of violence or drug-related felony. A violator is guilty of a felony and subject to a maximum sentence of 15 years. Each violation must be considered a separate offense.

Other disqualifying criteria for possession of a regulated firearm, or a rifle or shotgun, include: (1) suffering from a mental disorder as defined in § 10-101(f)(2) of the Health-General Article and having a history of violent behavior against the person or another, unless the person has a physician’s certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another; or (2) confinement for more than 30 days to a mental health “facility,” as defined in the Health-General Article, unless the person has a physician’s certificate that the person is capable of possessing such a weapon without undue danger to the person or to another.

A person must lawfully possess a dealer’s license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. An application for a dealer’s license must contain specific information, including a statement by the applicant that the applicant has never spent more than 30 consecutive days in a medical institution for treatment of a mental disorder, unless a physician’s certificate issued within 30 days before the date of application is attached to the application, certifying that the applicant is capable of possessing a regulated firearm without undue danger to the applicant or to another.

A dealer or other person may not knowingly participate in the illegal sale, rental, transfer, purchase, possession, or receipt of a regulated firearm. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for five years and/or a fine of \$10,000. Each violation is a separate crime.

To be issued a permit to wear, carry, or transport a handgun by the Secretary of State Police, an applicant must meet certain criteria, including not exhibiting a propensity for violence or instability which may reasonably render possession of a handgun a danger to the applicant or another

Background: There are 242 State-regulated firearm dealer licensees in Maryland. There are about 14,000 active handgun permits in Maryland.

Recent fatal shootings in several states by persons with histories of mental instability, and who were able to legally purchase and possess firearms, have given rise to several studies and the introduction of legislation in some states. Under federal law (18 U.S.C. § 922(d)), it is unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person has been adjudicated as a mental defective or has been committed to any mental institution. Current state laws vary, but most states prohibit a person from possessing a firearm if the person has been adjudicated a “mental defective” (mentally incompetent) or committed involuntarily to any mental institution.

In August 2011, GOCCP convened a workgroup on the issues addressed in this bill. To date, no formal recommendations have been made by the workgroup.

Additional Information

Prior Introductions: HB 730 of 2011 passed the House, but received an unfavorable report by the Senate Judicial Proceedings Committee.

Cross File: None.

Information Source(s): Office of the Attorney General, Governor’s Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State’s Attorneys’ Association, Department of Legislative Services

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