

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1340
Judiciary

(Delegate Rosenberg, *et al.*)

Firearms - Applications - Notification and Reporting

The bill establishes that, unless additional time is needed to avoid compromising an internal investigation, the Secretary of State Police must provide specified notification within 24 hours of denying a handgun qualification license (HQL) application or disapproving a firearm application to (1) the Attorney General; (2) the U.S. Attorney for the District of Maryland; (3) the State's Attorney for the county in which the applicant resides; and (4) any other State or local law enforcement agency with jurisdiction in the county in which the applicant resides. The Secretary of State Police must provide such a notification when denying an application for an HQL because the applicant is prohibited from possessing a firearm or when disapproving a firearm application because the firearm applicant supplied false information or made a false statement. The bill establishes related reporting requirements.

Fiscal Summary

State Effect: Although the bill's requirements may result in operational impacts for the Department of State Police and possibly other law enforcement units within State agencies, the changes are largely procedural in nature and can likely be handled with existing budgeted resources. State revenues are not affected.

Local Effect: Although the bill's requirements may result in operational impacts for some local law enforcement agencies, the changes likely have minimal impact on local governments.

Small Business Effect: None.

Analysis

Bill Summary: The required notification must include (1) the applicant's name, date of birth, and address; (2) the date and time of the application denial; and (3) the reason the application was denied.

Each law enforcement agency that receives notification from the Secretary of State Police must provide to the Secretary an annual report that includes for each denial or disapproval notification:

- whether the law enforcement agency is investigating the statements made by the applicant on the denied or disapproved application;
- whether the applicant was the subject of a completed investigation regarding the statements made by the applicant on the denied or disapproved application and the disposition of the investigation; or
- if the denial or disapproval did not result in an investigation, a detailed explanation of why an investigation did not occur.

The Attorney General and each State's Attorney that receives notification from the Secretary must provide to the Secretary an annual report that includes for each denial or disapproval notification:

- whether the agency is investigating or prosecuting the statements made by the applicant on the denied or disapproved application;
- whether the applicant has been charged with or prosecuted for perjury or any other criminal violation in connection with the statements made by the applicant on the denied or disapproved application; or
- if the agency did not charge or prosecute the applicant with perjury or any other violation in connection with the statements made by the applicant, a detailed explanation of why charges were not filed.

The Secretary must annually report to the General Assembly regarding:

- the number of HQL denials and firearm application disapprovals issued;
- the number of notifications issued under the bill;
- the number of investigations opened, concluded, or referred for prosecution in connection with application denials or disapprovals; and
- the number of criminal charges arising in connection with application denials or disapprovals.

Current Law:

Handgun Qualification License

An HQL authorizes a person to purchase, rent, or receive a handgun. A licensed firearms manufacturer, a specified active or retired law enforcement officer, a member or retired member of the U.S. Armed Forces or the National Guard, and a person purchasing, renting, or receiving an antique, curio, or relic firearm (as defined under federal law) are exempt from the requirements of the licensing provisions.

The Secretary of State Police must apply for a State and national criminal history records check for each applicant. As part of the application for a criminal history records check, the Secretary must submit one complete set of fingerprints of the applicant.

The application fee for an HQL is to cover administrative costs and may be up to \$50. The term of the license is 10 years. License renewal fees are set at up to \$20. Generally, the Secretary of State Police must issue an HQL to a person who (1) is at least 21 years old; (2) is a State resident; (3) has completed a firearms safety training course; and (4) is not prohibited by federal or State law from purchasing or possessing a handgun.

The Secretary may issue an HQL without an additional application or fee to a person who meets the requirements for the issuance of a handgun permit who does not already have an HQL.

Within 30 days after receiving a properly completed HQL application, the Secretary must provide (1) an HQL, if approved or (2) a written denial of the application including the reason the application was denied and a statement of the applicant's appeal rights regarding the decision.

Firearm Application

A person must submit a firearm application before the person purchases, rents, or transfers a regulated firearm. A firearm applicant must submit a firearm application to a licensed dealer or designated law enforcement agency and pay the required \$10 application fee. A firearm application must contain (1) the firearm applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification soundex number, occupation, and regulated firearm information for each regulated firearm to be purchased, rented, or transferred; (2) the date and time that the firearm applicant delivered the completed firearm application to the prospective seller or transferor; and (3) a copy of the applicant's handgun qualification license. In addition, a firearm application must contain a statement by the firearm applicant under the penalty of perjury that the firearm applicant:

- is at least 21 years old;
- has never been convicted of a disqualifying crime;
- has never been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;
- is not a fugitive from justice or a habitual drunkard;
- is not addicted to a controlled dangerous substance or is not a habitual user;
- does not suffer from a mental disorder and have a history of violent behavior against the firearm applicant or another;
- has never been found incompetent to stand trial or not criminally responsible;
- has never been voluntarily admitted for more than 30 consecutive days to a facility;
- has never been involuntarily committed to a facility;
- is not under the protection of a guardian appointed by a court, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- is not a respondent against whom a current non ex parte civil protective order has been entered or an order for protection has been issued by a court of another state or a Native American tribe and is in effect; and
- if under the age of 30 years at the time of application, has not been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult.

On receipt of a firearm application, the Secretary of State Police must conduct an investigation to determine the truth or falsity of the information supplied and statements made in the firearm application. In conducting an investigation, the Secretary may request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, or the sheriff in a county not maintaining a police force.

The Secretary must disapprove a firearm application if:

- the Secretary determines that the firearm applicant supplied false information or made a false statement;
- the Secretary determines that the firearm application is not properly completed; or
- the Secretary receives written notification from the firearm applicant's licensed attending physician that the firearm applicant suffers from a mental disorder and is a danger to the firearm applicant or to another.

If the Secretary disapproves a firearm application, the Secretary must notify the prospective seller, lessor, or transferor in writing of the disapproval within seven days after the date that the executed firearm application is forwarded to the Secretary. After notifying the

prospective seller, lessor, or transferor, the Secretary must notify the prospective purchaser, lessee, or transferee in writing of the disapproval.

Additional Information

Prior Introductions: None.

Cross File: SB 944 (Senator Raskin, *et al.*) - Judicial Proceedings.

Information Source(s): Charles and Montgomery counties, cities of Frederick and Havre de Grace, State's Attorneys' Association, Department of State Police, Department of Legislative Services

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