

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 827
Judiciary

(Delegate Kittleman, *et al.*)

Public Safety - Secretary of State Police - Temporary Firearms Training Waiver

This bill authorizes the Secretary of State Police to temporarily waive the requirement to complete a firearms training course pursuant to the issuance of a handgun permit, on a determination that an applicant has (1) obtained a protective order or a peace order; (2) demonstrated clear evidence that the applicant has been the victim of serious domestic abuse; or (3) demonstrated clear evidence of imminent danger to the applicant. An applicant issued a permit under the bill's temporary waiver provision must complete the training course within 60 days after the issuance of the permit.

Fiscal Summary

State Effect: None. The Department of State Police (DSP) can implement the bill with existing budgeted resources. Because the bill does not alter any of the other requirements for the issuance of a handgun permit, and because the waiver authorization is temporary, this analysis assumes that the number of handgun permits issued each year is not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: Generally, with certain exceptions, to be issued a permit to carry a handgun by the Secretary of State Police, an applicant (1) must be 18 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, 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 the applicant or another; 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. The Secretary may limit the geographic area; circumstances; or times of day, week, month, or year in which a permit is effective.

A handgun permit application costs \$75; two years after the initial permit and every three years thereafter, a \$50 renewal fee is due. In addition, the applicant must pay for fingerprint-based federal and State criminal history background checks for an initial application. A person who applies for a renewal of a handgun permit is not required to be fingerprinted unless the Secretary requires a set of the person’s fingerprints to resolve a question of the person’s identity. A permit expires on the last day of the holder’s birth month following two years after the date the permit is issued. A permit may be renewed for successive periods of three years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee.

Chapter 427 of 2013 (the Firearm Safety Act of 2013) requires a handgun permit applicant to successfully complete, prior to the application and each renewal, a firearms training course approved by the Secretary that includes (1) for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor, or 8 hours of instruction for a renewal application; (2) classroom instruction on State firearm law, home firearm safety, and handgun mechanisms and operation; and (3) a firearms qualification component that demonstrates the applicant’s proficiency and use of the firearm.

An applicant for a permit is not required to complete a certified firearms training course if the applicant:

- is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;
- is a member, retired member, or honorably discharged member of the U.S. Armed Forces or the National Guard;
- is a qualified handgun instructor; or
- has completed a firearms training course approved by the Secretary.

Chapter 427 also created a new licensing scheme for handguns under the authority of DSP. A handgun qualification license authorizes a person to purchase, rent, or receive a handgun. Some entities are exempt from the licensing requirement.

Protective Orders

If a judge finds by a preponderance of the evidence that abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse. Only individuals meeting specified relationship requirements are eligible for protective orders. Final protective orders may include various forms of relief, as specified, including ordering the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief; awarding temporary custody of a minor child of the respondent and a person eligible for relief; establishing temporary visitation with a minor child of the respondent and a person eligible for relief under certain conditions; and awarding emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support.

The final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent's possession and to refrain from possession of any firearm for the duration of the protective order.

All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years in specified circumstances set forth in statute. In limited circumstances specified by statute, the court may issue a permanent protective order that requires the respondent to refrain from abusing or threatening to abuse the person eligible for relief or refrain from contacting, attempting to contact, or harassing the person eligible for relief. A subsequent circuit court order pertaining to any of the provisions in the final protective order supersedes those provisions in the final protective order. Statutory provisions set forth circumstances under which a final protective order may be modified, rescinded, or extended.

Peace Orders

An individual who does not meet the requirements of a "person eligible for relief" under protective order statutes may file a petition for a peace order with the District Court or the District Court commissioner that alleges the commission of specified acts against the petitioner by the respondent, if the act occurred within 30 days before the filing of the petition. Relief granted in a final peace order is effective for the period stated in the order but may not exceed six months.

Background: There are about 17,800 active handgun permits in Maryland.

According to the 2015 *Uniform Crime Report*, 15,301 domestic violence crimes were reported in Maryland. Assault was by far the most frequently reported crime, with 25,996 incidents in calendar 2015. Of reported assaults, simple assaults comprised 21,054 incidents. Aggravated assaults totaled 4,927, or approximately 19%, of the reported domestic violence assaults for the same period. There were 68 domestic violence homicides.

In fiscal 2015 (the latest information readily available), the circuit courts granted 1,543 temporary protective orders and 1,166 final protective orders. In fiscal 2016, the District Court granted 13,221 interim protective orders, 17,447 temporary protective orders, and 7,906 final protective orders. In fiscal 2016, the District Court granted 7,121 interim peace orders, 15,749 temporary peace orders, and 6,032 final peace orders.

Additional Information

Prior Introductions: SB 214 of 2016, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 769, received a hearing in the House Judiciary Committee, but no further action was taken. SB 781 of 2015 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Department of State Police; Judiciary (Administrative Office of the Courts); Department of Legislative Services

Fiscal Note History: First Reader - March 10, 2017
fn/lgc

Analysis by: Shirleen M. E. Pilgrim

Direct Inquiries to:
(410) 946-5510
(301) 970-5510