

**Department of Legislative Services**  
Maryland General Assembly  
2023 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 1

(Senator Waldstreicher, *et al.*)

Judicial Proceedings

Judiciary

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**Criminal Law - Wearing, Carrying, or Transporting Firearms - Restrictions**  
**(Gun Safety Act of 2023)**

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This bill (1) prohibits, with specified exceptions, a person from wearing, carrying, or transporting a firearm in specified areas; (2) prohibits, with specified exceptions, a person from wearing, carrying, or transporting a firearm into the dwelling of another or onto real property; and (3) establishes penalties for violations. In addition, the bill repeals the authority of the Secretary of State Police to limit the geographical area, circumstances, or times of the day, week, month, or year in which a permit to wear, carry, and transport a handgun (handgun permit) is effective. Instead, the bill establishes required restrictions on the wearing, carrying, and transporting of a handgun with a handgun permit. The bill's provisions are severable.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. Potential minimal increase in State expenditures (multiple fund types) in FY 2024 only for units of State government to post signs in buildings they own or lease in accordance with the bill's provisions. Future year sign-related expenditures are not expected to materially affect State finances.

**Local Effect:** Potential minimal increase in local expenditures due to the bill's incarceration penalties. Potential minimal increase in local expenditures in FY 2024 only for units of local government to post signs in buildings they own or lease in accordance with the bill's provisions. Future year sign-related expenditures are not expected to materially affect local finances. Revenues are not anticipated to be materially affected.

**Small Business Effect:** Minimal.

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## Analysis

### Bill Summary:

#### *Wearing, Carrying, or Transporting a Firearm – Specified Areas*

*Prohibitions:* Generally, the bill prohibits a person from wearing, carrying, or transporting a firearm in “an area for children or vulnerable individuals,” “a government or public infrastructure area,” or “a special purpose area.” A government or public infrastructure area that is a building or any part of a building owned or leased by a unit of State or local government must display a clear and conspicuous sign at the main entrance indicating that it is not permissible to wear, carry, or transport a firearm in the building or that part of the building.

Nothing within these provisions limits the power of an administrative head of a Maryland court to punish for contempt or to adopt rules or orders regulating, allowing, restricting, or prohibiting the possession of weapons in any building housing the court or any of its proceedings, or on any grounds appurtenant to the building.

*Exceptions:* The above listed prohibitions generally do not apply to:

- law enforcement officials or police officers;
- on-duty employees of a law enforcement agency authorized by the agency to possess firearms on duty or whose duty assignment involves the possession of firearms;
- members of the U.S. Armed Forces, the National Guard, the uniformed services, or a Reserve Officer Training Corps program, as specified;
- correctional officers or wardens of a correctional facility in the State;
- a railroad police officer appointed under Title 3, Subtitle 4 of the Public Safety Article;
- an employee of an armored car company, as specified;
- a person who has retired as a law enforcement official in good standing from a law enforcement agency of the United States, the State, another state, or a local unit in the State or another state who possesses a firearm, as specified;
- for a location that is not owned by, leased by, or otherwise under the control of the State or a political subdivision of the State, the owner or lessee of the location or a person who is authorized by the owner or lessee of the location to wear, carry, or transport a firearm at the location for the purpose of employment as a licensed security guard or protecting any individual or property at the location with an express agreement between the parties, remuneration, or compensation;

- a location being used with the permission of the person or governmental unit that owns, leases, or controls the location for specified purposes; or
- a firearm that is carried or transported in a motor vehicle if the firearm is locked in a container or is a handgun worn, carried, or transported in compliance with specified statutory limitations by a person to whom a handgun permit has been issued.

*Penalties:* A person who willfully violates the prohibitions on wearing, carrying, or transporting a firearm in “an area for children or vulnerable individuals,” “a government or public infrastructure area,” or “in a special purpose area,” as specified, is guilty of a misdemeanor and on conviction is subject to imprisonment for up to one year and/or a fine of up to \$1,000. A conviction under these provisions may not merge with a conviction for any other crime based on the act establishing the violation. A sentence imposed under these provisions may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation.

*Definitions:* “Area for children and vulnerable individuals” means:

- a preschool or prekindergarten facility or the grounds of the facility;
- a private primary or secondary school or the grounds of the school; or
- a health care facility, as defined in § 15-10B-01(g)(1), (2), (3), and (4) of the Insurance Article.

“Firearm,” as defined in the bill and in existing statute, means a handgun, rifle, shotgun, short-barreled rifle, or short-barreled shotgun, or any other firearm. “Firearm” does not include an antique firearm.

“Government or public infrastructure area” means:

- a building or any part of a building owned or leased by a unit of State or local government;
- a building of a public or private institution of higher education, as defined in § 10-101 of the Education Article;
- a location that is currently being used as a polling place or for canvassing ballots, as specified;
- an electric plant or electric storage facility, as defined in § 1-101 of the Public Utilities Article;
- a gas plant, as defined in § 1-101 of the Public Utilities Article; or
- a nuclear power plant facility.

“Special purpose area” means:

- a location licensed to sell or dispense alcohol or cannabis for on-site consumption;
- a stadium;
- a museum;
- a racetrack; or
- a video lottery facility, as defined in § 9-1A-01 of the State Government Article.

*Wearing, Carrying, or Transporting a Firearm – Dwellings and Real Property*

*Prohibitions:* A person wearing, carrying, or transporting a firearm may not:

- enter or trespass in the dwelling of another unless the owner or the owner’s agent has given express permission, either to the person or the public generally, to wear, carry, or transport a firearm inside the dwelling;
- enter or trespass on property unless the owner or the owner’s agent has posted a clear and conspicuous sign indicating that it is permissible to wear, carry, or transport a firearm on the property; or
- enter or trespass on property unless the owner or the owner’s agent has given the person express permission to wear, carry, or transport a firearm on the property.

*Exceptions:* The prohibitions relating to real property do not apply to:

- law enforcement officials or police officers;
- on-duty employees of a law enforcement agency authorized by the agency to possess firearms on duty or whose duty assignment involves the possession of firearms;
- members of the U.S. Armed Forces, the National Guard, or the uniformed services, as specified;
- correctional officers or wardens of a correctional facility in the State;
- the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other property interest that allows public access on or through the real property; or
- the wearing, carrying, or transporting of a firearm on a portion of real property subject to an easement, a right-of-way, a servitude, or any other property interest allowing access on or through the real property by the holder of the easement, right-of-way, servitude, or other property interest or a guest or assignee of the holder of the easement, right-of-way, servitude, or other property interest.

*Penalties:* A person who willfully violates the prohibition on wearing, carrying, or transporting a firearm in the dwelling of another or onto real property is guilty of a misdemeanor and on conviction is subject to imprisonment for up to one year and/or a fine of up to \$1,000. A conviction under these provisions may not merge with a conviction for any other crime based on the act establishing the violation. A sentence imposed under these provisions may be imposed separate from and consecutive to or concurrent with a sentence for any crime based on the act establishing the violation.

*Definitions:* “Dwelling” means a building or part of a building that provides living or sleeping facilities for one or more individuals. “Dwelling” does not include:

- common elements of a condominium, as defined in § 11-101 of the Real Property Article;
- property of a cooperative housing corporation other than a unit, as defined in §-5-6B-01 of the Corporations and Associations Article; or
- common areas of a multifamily dwelling, as defined in § 12-203 of the Public Safety Article.

#### *Permit to Wear, Carry, or Transport a Handgun*

*Scope of Permit:* A handgun permit issued under the bill’s provisions must restrict the wearing, carrying, and transporting of a handgun by the person to whom the permit is issued to wearing, carrying, or transporting a handgun concealed from view under or within an article of the person’s clothing or within an enclosed case. The requirement to keep a handgun concealed is not violated by the momentary and inadvertent exposure of a handgun or the momentary and inadvertent imprint or outline of a handgun.

A person is not subject to the requirement to keep a handgun concealed if the person is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person’s official equipment, and is:

- a person exempted under §4-203(b)(1) of the Criminal Law Article (which applies to certain individuals, including specified law enforcement officials);
- a security guard licensed under Title 19 of the Business Occupations Article acting within the scope of employment;
- a correctional officer or warden of a correctional facility in the State acting within the scope of employment;
- a railroad police officer appointed under Title 3, Subtitle 4 of the Public Safety Article acting within the scope of employment; or
- an employee of an armored car company acting within the scope of employment.

## **Current Law:**

*Wearing, Carrying, or Transporting a Handgun:* With specified exceptions and subject to a range of penalties, a person is generally prohibited from wearing, carrying, or transporting a handgun, whether concealed or open, on or about the person. One exception is when a person has a permit issued by the Secretary of State Police to carry, wear, or transport a handgun. The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective. Current law requirements and background relating to the issuance of handgun permits are summarized in the **Appendix – Handgun Permit Requirements – Current Law/Background.**

**Additional Comments:** Shortly after the U.S. Supreme Court’s decision in *New York State Rifle & Pistol Association v. Bruen*, 597 U.S. (2022), the New York legislature passed a law known as the Concealed Carry Improvement Act. Among other things, the Act included (1) a requirement that an applicant for a concealed-carry license show “good moral character”; (2) a requirement that an applicant provide the names and contact information for family members; (3) a ban on firearms in “sensitive places” such as churches and parks; and (4) a prohibition on firearms on private property unless the property owner specifically agrees to allow firearms. After multiple court challenges, which are ongoing, the U.S. Court of Appeals for the Second Circuit has issued stays on three lower court decisions that have found various aspects of the law unconstitutional. Those decisions remain on hold while an emergency request is pending before the U.S. Supreme Court.

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## **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** None.

**Information Source(s):** Anne Arundel, Frederick, and Somerset counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State’s Attorneys’ Association; Department of Public Safety and Correctional Services; Department of State Police; Office of Administrative Hearings; Department of Legislative Services

**Fiscal Note History:**  
km/aad

First Reader - February 5, 2023  
Third Reader - March 28, 2023  
Revised - Amendment(s) - March 28, 2023  
Enrolled - May 9, 2023  
Revised - Amendment(s) - May 9, 2023

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## **Appendix**

### **Handgun Permit Requirements – Current Law/Background**

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Generally, with certain exceptions, to be issued a handgun permit 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) 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; (4) must not exhibit a propensity for violence or instability, which may reasonably render possession of a handgun a danger to the applicant or another; (5) must have successfully completed, prior to application and each renewal, a specified firearms training course approved by the Secretary; (6) if 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; and (7) 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 applicant must 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.

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.

Generally, a handgun permit expires on the last day of the holder's birth month following two years after the date the permit is issued; however, the Secretary may establish an alternative expiration date for a permit to coincide with the expiration of a private detective license, a security guard certification, or a special police officer commission. 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.

On June 23, 2022, the U.S. Supreme Court, in *New York State Rifle & Pistol Association, Inc. v. Bruen*, 597 U.S. (2022), held unconstitutional a New York law that required applicants for a concealed carry handgun permit to demonstrate a "proper cause" (or a special need for self-defense) before issuance of a license to carry a handgun in public. In a 6-3 ruling, the Supreme Court held for the first time that the Second Amendment provides a constitutionally protected right for a law-abiding citizen to carry a handgun outside the home for self-defense.

Following the U.S. Supreme Court's decision, Maryland's Court of Special Appeals (now the Appellate Court of Maryland) applied *Bruen* directly to *In the Matter of William Rounds*, 255 Md. App. 205 (2022), ruling that Maryland's wear and carry handgun permit law requiring an applicant to have a "good and substantial reason" to be issued a license to carry was analogous to New York's "proper cause" requirement and was unconstitutional. On July 5, 2022, then Governor Lawrence J. Hogan, Jr., responded to the ruling by directing the Department of State Police (DSP) to immediately stop using the "good and substantial reason" requirement when reviewing handgun permits in the State. On July 6, 2022, the Office of the Attorney General issued a similar letter advising on the constitutionality and severability of the "good and substantial reason" from the State's handgun permit statute while affirming all other requirements for a handgun permit remain in effect.

According to DSP, there has been a substantial increase in handgun permit applications in Maryland since the *Bruen* ruling. In 2022, DSP received 85,266 new applications for handgun permits (up from a total of 12,189 in 2021) and 8,891 handgun permit renewal applications. DSP denied 1,787 applications in the same year. As of January 20, 2023, there are approximately 113,964 active handgun permits in the State (up from 26,119 active handgun permits in the State at the end of 2021). It generally takes less than 2 days to receive the results of a national criminal history records check from the FBI and approximately 90 days to process, investigate, and issue a permit.