

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 159
Judiciary

(Delegate Attar)

Judicial Proceedings

Criminal Procedure - Warrantless Arrest - Straw Purchase Participant

This bill authorizes a police officer to arrest a person without a warrant if the police officer has probable cause to believe that the person is knowingly being a participant in a straw purchase of a regulated firearm under § 5-141 of the Public Safety Article.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Current Law:

Straw Purchase of a Regulated Firearm

A dealer or other person may not be a knowing participant in a straw purchase of a regulated firearm for a minor or for a person prohibited by law from possessing a regulated firearm. A violator is guilty of a misdemeanor and on conviction is subject to maximum penalties of imprisonment for 10 years and/or a \$25,000 fine. Each violation is a separate crime.

Warrantless Arrests

Generally, for a police officer to be authorized to make an arrest, a judge or District Court commissioner must first issue a warrant based on a finding of probable cause. A law enforcement officer may, however, make a warrantless arrest when (1) a person commits or attempts to commit a felony or misdemeanor in the police officer's presence or within view of the police officer; (2) the police officer has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer; (3) the police officer has probable cause to believe that a person has committed or attempted to commit a felony, whether or not in the presence or within the view of the police officer; or (4) the police officer has probable cause to believe that the person has committed one of a limited number of offenses specified in statute and that unless the person is arrested immediately, the person may not be apprehended, may cause physical injury or property damage to another, or may tamper with, dispose of, or destroy evidence.

Additional Comments: The Judiciary advises that, in fiscal 2022, two violations were filed in the District Court and two violations were filed in the circuit courts for knowing participation in a straw purchase of a regulated firearm under § 5-141 of the Public Safety Article. There was one conviction in the circuit courts in fiscal 2022.

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See HB 211 of 2022.

Designated Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of State Police; Department of Legislative Services

Fiscal Note History: First Reader - January 26, 2023
km/aad Third Reader - March 1, 2023

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