

## **Baranauskas\_FAV\_SB674**

Uploaded by: baranauskas, andy

Position: FAV



## GOVERNOR'S COORDINATING OFFICES

Community Initiatives • Service & Volunteerism • Performance Improvement  
Crime Prevention, Youth, & Victim Services • Small, Minority, & Women Business Affairs  
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### FROM THE GOVERNOR'S OFFICE OF CRIME PREVENTION, YOUTH, AND VICTIM SERVICES

March 3, 2020

Chair William C. Smith Jr.  
Senate Judicial Proceedings Committee  
2 East  
Miller Senate Office Building  
Annapolis, Maryland 21401

**Re: Senate Bill 672/674 Criminal Law - Theft of a Handgun/Gun Theft Felony Act of 2020**

### **POSITION: Letter of Support**

Dear Chair Smith and Members of the Committee,

The Governor's Office of Crime Prevention, Youth, and Victim Services ("Office") is providing this letter of support for both Senate Bill 672 and Senate Bill 674 that deal with stronger penalties for theft of a firearm.

Senate Bill 672 excludes handgun theft from the general theft statute and creates a separate felony offense and penalties for theft of a handgun. Upon first conviction the individual would be eligible for a term of incarceration up to 5 years, with a two year minimum sentence. For a second or subsequent conviction, the individual would be eligible for a term of imprisonment up to 10 years, with a minimum sentence of five years.

Senate Bill 674 excludes theft of a firearm from the general theft statute and creates a separate felony offense and penalties for theft of a firearm. First conviction also carries a 5 year maximum prison sentence, with a mandatory minimum of two. For a second or subsequent conviction, the individual would be eligible for up to 10 years in prison with a mandatory minimum sentence of five years.

Both of these bills are similar to legislation introduced by the Governor, SB273: Violent Firearms Offender Act of 2020. SB 273 also set a minimum sentence for theft of a firearm.

These bills would contribute to combating the ongoing crime problem in Baltimore City. In 2018 there were 309 murders in Baltimore City, of which 273 were committed with a firearm. In 2019, there were 348 murders committed in Baltimore, of which 312 were committed with a

firearm. In addition there were 771 non-fatal shootings in 2019, an increase of 14% over the 677 in 2018.

The Governor's Office of Crime Prevention, Youth, and Victim Services urges a favorable report. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "V. Glenn Fueston, Jr.", with a stylized, cursive script.

V. Glenn Fueston, Jr.

Executive Director

Governor's Office of Crime Prevention, Youth, and Victim Services

For all inquiries, please contact  
Andy Baranauskas, Legislative Affairs Manager  
410-855-2538  
[Anthony.Baranauskas@maryland.gov](mailto:Anthony.Baranauskas@maryland.gov)

## **Nicholas\_DeTello\_FAV\_SB0674**

Uploaded by: DeTello, Nicholas

Position: FAV

# Testimony in favor of Bill SB0672/SB0674

Hello ladies and gentlemen, my name is Nick DeTello, I'm a Software Engineer, an Eagle Scout, and I've been a resident of Maryland my entire life. I'm supporting SB0672 and SB0674 because it will address the elephant in the room, theft of firearms in Maryland. The vast majority of crime in Maryland occurs with handguns that were acquired on the black market and had their serial number filed off. This bill will finally address that issue by going after the criminals who were already caught violating the existing law. As the law stands right now, they simply get a slap on the wrist and a quick release. It's embarrassing how weak handed we are to criminals while law after law gets introduced penalizing the law abiding for practicing their rights. I'm sure you've heard us reference this in other bills proposed this year – it won't be a point of contention any longer if the sentence given to criminals at the very least matches what's being put on the law-abiding. Thank you for your time.

## **Jesse\_Ferguson-FAV\_SB674 (002)**

Uploaded by: Ferguson, Jesse

Position: FAV

## Written Testimony of Jesse Ferguson, resident of Caroline County, Maryland, in Support of SB0674

I am a hard-working husband, father of two young girls, and a native of Maryland's Eastern Shore. I am an avid hunter, firearms collector, and participant in all manners of competition involving shooting and firearms.

This bill is one of the few common sense bills I've seen this legislative session. When the majority of the violent crime committed in the state is done so with criminals in possession of stolen firearms, the penalties for stealing a firearm need to be stiffer.

I fully support SB0674 and urge a favorable report from the committee.

Sincerely,

Jesse Ferguson

Federalsburg, MD

jessebferguson@gmail.com

## **Jefferyfolk\_FAV\_SB674**

Uploaded by: Folk, Jeffrey

Position: FAV



Testimony on behalf of Jeffrey S. Folk

IN SUPPORT OF:

**SB674 – Criminal Law – THEFT OF A FIREARM**

Judicial Proceedings

March 3, 2020

I am a citizen of Garrett County, a loving husband and caring father of two. I am writing today in SUPPORT OF SB674.

It is time for the Senate to inject reason and remove emotion when it comes to legislation impacting the civil rights of our citizens in Maryland. Year after year, bills are proposed that only tack on criminal penalties at the time of an arrest, yet they do nothing to deter or even stop criminals from committing crimes with a firearm. This piece of legislation does something to deter theft by making it a felony.

Please focus your time, energy and effort to punish true criminals who break the law and wish to cause others harm. If the goal is to make Maryland safer, this bill takes a step to remove violent criminals from the streets. If they are in prison, they can't commit violent crimes with a firearm.

It is for these reasons that I am in SUPPORT of SB674 and ask that the committee return a favorable report.

Sincerely,

Jeffrey Folk

## **Kohler\_fav\_sb674**

Uploaded by: Kohler, Gene

Position: FAV

March 2, 2020

Testimony in regard to SB 0672 and 0674

Gene Kohler  
3231 Chrisland Dr.  
Annapolis, MD 21402

410 295 6686  
[gmkoh@comcast.net](mailto:gmkoh@comcast.net)

Position on bill: Support

Finally two common sense bills that may actually impact the runaway violence plaguing Maryland in general and Baltimore in particular.

This is a bill that targets the criminal, not burdening law abiding citizens with \*ineffective laws that restrict their rights to self defense, add expense to the exercise of those rights and create a new class of criminals by the swipe of the legislative pen.

\*Ineffective: Since the passage of the sweeping firearms safety act of 2013, after a decade of decreasing violent crime, violence in Maryland has increased over 70% reaching record rates and earning Baltimore the distinction of the most dangerous city in the country. Common sense dictates that when a course of action is not only ineffective, but actually increases the problem, a different course of action is called for.

Instead of punishing law abiding citizens and creating criminals of them, these bills punishes individuals who are actually criminals! And bring the punishment in line with other crimes.

Maryland comes close to leading the nation in the decrease of the numbers of incarcerated individuals over the last 5 years. It is disturbing that while Maryland becomes more lenient, She also becomes more violent.

Maryland has a recidivism rate of over 40%. If keeping these potentially violent criminals off the street longer saves just one life..... And it can be assumed that they are potentially violent otherwise they would not need to steal a firearm

These bills are real deterrents to violent firearms crime, if they are utilized and followed by the courts. The revolving door justice system now, where criminals know if they steal a firearm, it will not cost them any extra time, and probably be pleabargained out of the charges anyway is not much of a credible deterrent.

V/R  
Gene Kohler, DMD  
Capt, USN (ret)

## **Art\_Novotny\_FAV\_SB674**

Uploaded by: Novotny, Art

Position: FAV

## **Support SB674**

Gun Theft Felony Act of 2020

Art Novotny

3/3/2020

I'm a little surprised that theft of a firearm is not already a felony. With all the proposed increased penalties for citizens who legally own but improperly store, lend, or own certain firearms, how could theft of a firearm not be treated more seriously?

People steal firearms to commit violent crimes with them...that's "gun violence." The actual perpetrators of gun violence need to be locked up, where hopefully they can get the help they need to restructure their lives. Most importantly, if they are in jail, they are not continuing the cycle of gun violence.

Isn't making theft of a firearm a felony just common sense?

## **Katie\_Novotny\_FAV\_SB674**

Uploaded by: Novotny, Katie

Position: FAV

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*Written Testimony of Katie Novotny in Support of SB672 and SB674*

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March 3, 2020

I am a member of Multiple Gun Rights organizations. Maryland Shall Issue, Associated Gun Clubs, Maryland State Rifle and Pistol Association, and the National Rifle Association. I am a certified Range Safety Officer with the NRA. I compete in multiple shooting events such as Steel Challenge, 3-gun, small bore, and vintage military rifle matches. I am an avid firearms collector. I support SB672 and SB674.

Under current law, the theft of a handgun or any firearm is treated as simple theft, generally in the \$100-\$1,500 category. The penalty for this is only 6 months imprisonment and/or a fine of \$500 for a first offense, and 1 year and/or \$500 fine for second or subsequent convictions. Therefore, stealing a firearm does not make a person a prohibited person for future lawful firearms purchases. I think that most would agree that stealing a firearm should prohibit a person from lawfully purchasing a firearm in the future.

I believe it is common sense that the theft of a firearm should be a separate crime than theft of property or services. Any theft is bad, but theft of a handgun, or any firearm is especially egregious. The only reason anyone would steal a firearm would be for nefarious purposes. The punishment must match the seriousness of the crime. With the current state of affairs with murders by handgun in this state, an increased penalty is in order.

Because of these reasons above, I request a favorable report.

Katherine Novotny

District 7

443-617-7568

Katie.Novotny@hotmail.com

## **Pennak\_President\_MSI\_FAV\_SB 674**

Uploaded by: Pennak, Mark

Position: FAV





March 3, 2020

## WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF SB 672, SB 674 AND HB 914

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is an all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of Maryland and of the Bar of the District of Columbia. I recently retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland firearms law, federal firearms law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License (“HQL”) and a certified NRA instructor in rifle, pistol, personal protection in the home, personal protection outside the home and in muzzle loader. I appear today as President of MSI in SUPPORT of SB 672, SB 674 and HB 914

### These Bills

The purpose of these bills is to provide for greatly enhanced penalties for the theft of a firearm. Under current law, theft of a firearm is treated just like the theft of any other piece of personal property. For example, under MD Code Criminal Law § 7-104(g)(2), “a person convicted of theft of property or services with a value of at least \$100 but less than \$1,500, is guilty of a misdemeanor and: (i) is subject to: 1. for a first conviction, imprisonment not exceeding 6 months or a fine not exceeding \$500 or both; and 2. for a second or subsequent conviction, imprisonment not exceeding 1 year or a fine not exceeding \$500 or both.

All of these bills would change these penalties to a felony. SB 672 would apply only to theft of **a handgun** and punish a first offense as a felony, imposing a sentence of at least 2 years and not exceeding 5 years and/or a fine of \$5,000. SB 674 and its cross-filed bill, HB 914, would apply to the theft of **any firearm** and would impose, on the first offense, imprisonment of at least 2 years and not exceeding 5 years and and/or a fine of \$1,000. All the bills would impose minimum sentences of at 2 years on the first offense.

### These Bills Are Necessary For the Public Safety:

Simply put, it is unbelievable that theft of a firearm is punishable so lightly under current law. The value of most firearms, including most handguns, fall into the range of between \$100 and \$1,500 and thus theft of such firearms is currently punished **at most** by 6 months in prison and/or a small fine. In reality, persons convicted of such a crime are very unlikely to see any jail time at all, as the Maryland Sentencing Guidelines classify this property crime as a Category VII offense (even on a second offense), which is the least serious offense listed in the Guidelines and one that can be punished by mere probation.

See <http://www.msccsp.org/Guidelines/Matrices.aspx#property>. Yet, it should be obvious that stealing a firearm is a serious threat to the community and, as such, well deserving of actual punishment. See David J. Cherrington, *Crime and Punishment: Does Punishment Work?* at 4 (2007) (“Studies of punishment have shown that individuals who have observed others being punished change their behavior almost as much as those who were actually punished.”), available at <https://scholarsarchive.byu.edu/cgi/viewcontent.cgi?article=1953&context=facpub>.

Indeed, the mild, non-punishment accorded to the theft of firearms is particularly striking in light of the **severe penalties** that Maryland law metes out to otherwise law-abiding citizens of Maryland who happen to run afoul of one of the many criminal provisions of Maryland’s firearms law. For example, a new resident of Maryland who knowingly neglected to register his or her regulated firearm within 90 days of becoming a Maryland resident, as required by MD Code Public Safety § 5-143, is subject to imprisonment for **5 years** and/or a \$10,000 fine under MD Code Public Safety § 5-144(b). A law-abiding person who knowingly “receives” a handgun in Maryland without possessing a Handgun Qualification License issued under by MD Code Public Safety § 5-117.1, can likewise be punished by **5 years** imprisonment and/or fined under Section 5-144.

Other provisions of Maryland firearms law do not even require a *mens rea*. An otherwise innocent “transport” in Maryland of a so-called “assault weapon” banned by MD Code Criminal Law §4-303, is punishable by up to **3 years** imprisonment and/or a fine of \$5,000 under MD Code Criminal Law §4-306, regardless of whether the person even knew of the prohibition. Under MD Code Criminal Law § 4-203, a person is “subject to imprisonment **for not less than 30 days and not exceeding 3 years** or a fine of not less than \$250 and not exceeding \$2,500 or both” for as little as leaving an unloaded handgun in the car’s trunk while doing grocery shopping on the way home from the range. No *mens rea* required.

And severe punishment is not restricted to firearms. Absentmindedly taking a penknife (e.g., a Swiss Army knife) anywhere onto school “property” is a violation of MD Code Criminal Law §4-102, and that crime is punishable by imprisonment not exceeding **3 years** or a fine not exceeding \$1,000 or both, regardless of scienter. Under MD Code Criminal Law, § 4-101, merely carrying **pepper spray** in one’s pocket can be punished by **3 years** of imprisonment and/or a \$1,000 fine.

Maryland should not be punishing mistakes by otherwise innocent persons so severely while letting actual **thieves of firearms** off the hook with the proverbial “slap on the wrist.” After all, thieves actually know that stealing is criminal. Nothing good can come from stealing a firearm. We urge a favorable report for either one of these bills.

Sincerely,



Mark W. Pennak  
President, Maryland Shall Issue, Inc.  
[mpennak@marylandshallissue.org](mailto:mpennak@marylandshallissue.org)

## **MDJudiciary\_UNF\_SB674**

Uploaded by: Jones, Tyler

Position: UNF

**MARYLAND JUDICIAL CONFERENCE**  
**GOVERNMENT RELATIONS AND PUBLIC AFFAIRS**

Hon. Mary Ellen Barbera  
Chief Judge

187 Harry S. Truman Parkway  
Annapolis, MD 21401

**MEMORANDUM**

**TO:** Senate Judicial Proceedings Committee  
**FROM:** Legislative Committee  
Suzanne D. Pelz, Esq.  
410-260-1523  
**RE:** Senate Bill 674  
Gun Theft Felony Act of 2020  
**DATE:** February 12, 2020  
(3/3)  
**POSITION:** Oppose

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The Maryland Judiciary opposes Senate Bill 674. This legislation provides that a person convicted of theft of a firearm is guilty of a felony and subject to certain penalties. The court is prohibited from imposing less than or suspending any part of the mandatory minimum sentence of two years and for a second or subsequent conviction, five years. The sentence imposed must be separate from and consecutive to a sentence for any other offense.

The Judiciary traditionally opposes legislation that includes mandatory penalties. The Judiciary believes it is important for judges to weigh the facts and circumstances for each individual case when imposing a sentence. Provisions that place restrictions on the judge prevent the judge from considering legislative intent or factors unique to the case. Recognizing that lawmakers are responsible for enacting penalties for crimes, judges are mindful of various mitigating factors in crafting a sentence that most appropriately fits the individual defendant and the crime.

cc. Hon. George Edwards  
Judicial Council  
Legislative Committee  
Kelley O'Connor