

MSI Testimony on SB 826 risk groups.pdf

Uploaded by: Pennak, Mark

Position: FAV



March 10, 2021

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF SB 826

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 826.

Current Law and This Bill

This bill would amend MD Code, Public Safety, § 5-306(b)(6)(ii). That provision provides that a person who demonstrated that he or she has a “good and substantial reason” may be issued a wear and carry permit by the State Police to carry a handgun. In administering this provision, the State Police uses various categories for judging whether an applicant has demonstrated a “good and substantial reason.” See Maryland State Police, Standard Operating Procedure, *Processing of Handgun Permit Applications*, SOP 29-19-004 at page 4 (Aug. 5, 2019) (attached). One of those categories is “Assumed Risk Positions.” (Id.). An “assumed risk position” is defined as a position “where, by virtue of the positions duties and responsibilities, the employee voluntarily and knowingly assumes the risks that those duties will place their lives in imminent danger and subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities. (Id. at page 1).

This bill would amend Section 5-306(b)(6)(ii) to provide essentially that the following groups of persons should be designated as occupying “assumed risk positions” under Section 5-306: Persons employed as A. A CORRECTIONAL OFFICER; B. A PAROLE AND PROBATION OFFICER; C. A FIREFIGHTER; D. AN EMERGENCY MEDICAL TECHNICIAN; E. A RESCUE SQUAD MEMBER; F. A SECURITY GUARD FOR A CHURCH OR RELIGIOUS ORGANIZATION; G. A PHYSICIAN; H. A PHYSICIAN’S ASSISTANT; I. A NURSE; OR J. A NURSE PRACTITIONER.

Nothing in the bill would change any of the requirements for obtaining a permit, including leaving unchanged the rigorous training requirements of 16 hours of instruction that includes a live fire component that “demonstrates the applicant’s proficiency and use of the firearm.” See Section 5-306(b)(5). Also unchanged is the requirement that the State Police conduct a deep background investigation using the applicant’s fingerprints. All initial applicants for permits are interviewed face-to-face by a State Police investigator. That investigator not only checks out all listed references, but often contacts others as well, including spouses, ex-spouses, neighbors and employers. The investigator conducts a NICS check of the applicant as well as doing a background check using 17 different Maryland state databases. It is a highly intrusive investigation. Unchanged as well is the requirement that the State Police find that the applicant “has not exhibited a propensity for violence or instability that may reasonably render the person’s possession of a handgun a danger to the person or to another.” See Section 5-306(b)(6)(i).

The Bill Is Necessary For the Safety of Persons in the Listed Occupations:

In our view, each of the newly listed occupations set forth in this bill fully satisfy the State Police’s existing requirements for an “assumed risk” position, *viz.*, the person “voluntarily and knowingly assumes the risks that those duties will place their lives in imminent danger and subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities.” Yet, under existing State Police guidelines, the inchoate threats they face every day are insufficient to obtain a permit for personal protection. Specifically, for personal protection permits, the State Police require proof of past threats, including police reports. SOP at 6. In essence, these individuals must actually suffer an attack or actual, documented threats in order to get a permit for personal protection. That an attack without warning may be fatal or result in severe injury is simply irrelevant to the State Police under their SOP. No such documentation or prior attacks are required for persons who fall within the “assumed risk” category. (Id.).

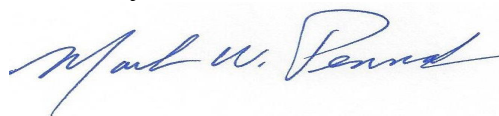
A “correctional officer” faces daily risk of retaliation by ex-convicts or the families or “associates” of current inmates and that is true off-duty as well as on duty. The same is true of a parole and probation officer. Similarly, the first responders listed in the bill wear a uniform that is closely similar to that of police officers with whom they quite often seen in connection with their official duties. These individuals are targets of threats and those threats do not magically disappear when they are off-duty. <https://www.firefighterclosecalls.com/first-responders-become-targets-of-threats/>. These first responders are putting their own lives on the line for the safety of the community. That is particularly so in this pandemic. The risk to security guards for a church or religious organization is beyond reasonable dispute. <https://www.cnn.com/2019/12/29/us/church-shooting-texas/index.html>. Physicians and their assistants often carry narcotics and other dangerous controlled substances and are often threatened and attacked. <https://thedo.osteopathic.org/2018/09/violence-against-physicians-facing-an-elevated-risk/>. In short, there been a surge of violence directed against health care workers in particular. <https://www.ajmc.com/view/the-persistent-pandemic-of-violence-against-health-care-workers>. That risk has only gotten worse with the pandemic. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(20\)31858-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)31858-4/fulltext) See also <https://www.beckershospitalreview.com/nursing/a-quiet-growing-epidemic-violence-against-healthcare-workers-has-persisted-for-years-unresolved.html>. The **prescription pad** alone is of priceless value to drug gangs. Physicians, nurses and nurse practitioners work

long hours and often do so late into night, especially in this pandemic. These individuals all have elevated risks of attack simply walking to their cars across a dark parking lot, using public transportation and or otherwise commuting to their places of employment.

With a wink and nod, Members of the General Assembly are deemed to fall with this assumed risk category and thus are able to obtain carry permits with little ado. Yet, the persons identified in this bill, who actually put their lives on the line day in and day out, are not accorded the same treatment. Members of the General Assembly may well warrant privileged treatment. But if a summer of unrest and the pandemic has taught us nothing else it is that these persons are special too. They have a right defend themselves no less than Members of the General Assembly.

Forty two states and the District of Columbia allow their law-abiding citizens to obtain “shall issue” carry permits under objective, “shall issue” criteria. Maryland’s “may issue” law is the outlier. Maryland’s restrictive permitting system will likely be invalidated by the courts at some point, just as D.C.’s restrictive system (modeled after Maryland’s) was invalidated by the United States Court of Appeals for the District of Columbia Circuit in *Wrenn v. District of Columbia*, 864 F.3d 650, 661 (D.C. Cir. 2017) (holding that the “core” of the Second Amendment protected “the individual right to carry common firearms beyond the home for self-defense—even in densely populated areas, even for those lacking special self-defense needs”). Indeed, that day may come soon as the constitutionality of “may issue” laws like Maryland’s is currently before the Supreme Court on a petition for certiorari in *NYSRPA v. Corlett*, No. 20-843, docketed (Dec. 23, (2020) (challenging New York’s “may issue” law). See <https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/20-843.html>. As *Wrenn* holds, the fundamental right of self-defense belongs to **all** law-abiding persons, not just special people. But until Maryland’s law is actually invalidated or repealed, Maryland should at least permit the persons in these listed occupations to protect themselves. We urge a favorable report.

Sincerely,



Mark W. Pennak
President, Maryland Shall Issue, Inc.
mpennak@marylandshallissue.org



MARYLAND STATE POLICE STANDARD OPERATING PROCEDURE



Processing of Handgun Permit Applications

Distribution: Licensing Division Personnel	Index: SOP 29-19-004
DLI Reference: N/A	Rescinds: 29-15-007
Issued: 08/05/2019	Revised: N/A

.01 Purpose

To establish guidelines for the approval and denial of wear and carry handgun permit applications and applying the appropriate restriction on issued permits.

.02 Policy

It is the policy of the Licensing Division to properly investigate every application for a wear and carry handgun permit, and apply an appropriate restriction to issued permits in conformance with: 18 U.S.C. §922(g) (1-9), Annotated Code of Maryland, Public Safety Article, Title 5, Sub-Title 3, Annotated Code of Maryland, Public Safety Article, §5-133 and the Code of Maryland Regulations, Title 29.03.02.

.03 Definitions

ADMINISTRATIVE HEARING: a fair, impartial and independent opportunity to be heard by an Administrative Law Judge (ALJ), within the Office of Administrative Hearings (OAH), on the issue(s) regarding the denial of, or restriction(s) placed on a wear and carry permit. The ALJ assigned to hear the case determines facts, based on the evidence and argument presented at the hearing, reviews the relevant law and gives a decision on the issue(s) in question.

ADMINISTRATIVE LAW JUDGE (ALJ): is an attorney appointed by the Chief ALJ to conduct administrative hearings. The ALJ is an employee of the OAH, not an employee of the agency involved in the aggrieved case.

APPREHENDED DANGER/FEAR: an objectively established concern that the applicant's life is in danger or that the applicant is being targeted by individuals wishing to do him or her harm.

ARMORED CAR DRIVER: an individual who is employed by a legitimate armored services company and conducts business as described in Public Law, §103-55, "Armored Car Industry Reciprocity Act of 1993."

ASSUMED RISK POSITION: a position, as determined by the Secretary, of the Department of State Police (Secretary), of government/public safety/criminal justice employment where, by virtue of the positions duties and responsibilities, the employee voluntarily and knowingly assumes the risks that those duties will place their lives in imminent danger and subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities.

BACKGROUND CHECKS: criminal history and mental health record checks conducted via the submission of CJIS and/or FBI fingerprint cards and/or criminal history checks conducted by Licensing Division personnel via authorized certifications and CJIS/NICS query capable terminals.

BAIL BONDSMEN: an individual who owns or is employed by a licensed bail bond agency and acts in accordance with the common law authority of United States Code Service, Title 15, Commerce and Trade, Chapter 83, U.S. 366 (1872) or possesses a valid private detective license.

SOP 29-19-004
Processing of Handgun Permit Applications

BUSINESS: a person's regular occupation, profession or trade.

BUSINESS ACTIVITIES: any activity engaged in by the owner or employee to further or benefit the business entity.

BUSINESS OWNER: an individual who has verifiable documentation, such as, a business/trader's license, articles of incorporation or other legal documents legitimizing ownership of an active and in good standing business.

BUSINESS EMPLOYEE: an individual who has verifiable documentation of employment by an active and in good standing business.

CORRECTIONAL OFFICER: an individual who is employed or contracted by a governmental agency whose primary function is to safeguard, transport or secure individuals who have been incarcerated.

GOOD AND SUBSTANTIAL REASON: an objective determination, arrived at by the Secretary, or designee, based upon an investigation that the wearing, carrying or transporting of a handgun by the applicant is necessary.

HANDGUN PERMIT REVIEW BOARD: a panel of five individuals, appointed by the Governor, who serve under the Department of Public Safety and Correctional Services and fulfill the obligations established in the Annotated Code of Maryland, Public Safety Article, §5-312.

INFORMAL REVIEW: a meeting with an applicant, who disagrees with the decision to either deny, revoke or limit their permit, to discuss and review documents and information, submitted on behalf of the applicant. Reviews are conducted by a member of Licensing Division Command Staff in order to sustain, reverse or modify the initial action taken.

LAW ENFORCEMENT OFFICER: an individual, who in an official capacity, is authorized by law to make arrests and is a member of a recognized law enforcement agency (Annotated Code of Maryland, Public Safety Article, §3-101), including Federal law enforcement officer (Annotated Code of Maryland, Criminal Procedure Article, §2-104).

MODIFICATION REQUEST: the filing for change or alteration of an already existing wear and carry permit in accordance with Annotated Code of Maryland 29.03.02.11. A modified permit is issued with the same expiration date as the previously issued permit.

OFFICE OF ADMINISTRATIVE HEARINGS (OAH): is an independent, central panel agency, within the executive branch, that holds administrative hearings on behalf of certain agencies of the executive branch of the State government.

ORIGINAL APPLICATION: The initial filing for a wear and carry permit from an individual. An original permit expires on the last day of the holder's birth month, following two years after the date the permit is issued.

PERSONAL PROTECTION: a good and substantial reason for the wearing, carrying or transporting of a handgun for an individual who is at significant risk of danger from another individual(s) and where the individual's apprehended fear of reprisal is based on more than his/her personal anxiety and beyond that of the average citizen that he/she is being targeted by individuals wishing to cause him/her harm.

PRIVATE DETECTIVE: a certified individual who is employed by and provides private investigative services on behalf of any licensed private detective agency, pursuant to the Business Occupation and Professions, Annotated Code of Maryland, Title 13.

PRIVATE SECURITY OFFICER: an individual who is employed by any company, business or organization whose responsibilities are providing security services exclusively for that company, business or organization.

SOP 29-19-004
Processing of Handgun Permit Applications

PRIVATE ORGANIZATION SECURITY TEAM MEMBER: an individual who is a member of any organization whose responsibilities are providing security services exclusively for that organization on a volunteer basis.

RENEWAL APPLICATION: the filing for re-issue of an existing wear and carry permit that has not expired. A renewed permit expires on the last day of the holder's birth month, following three years after the date the permit is issued.

REPLACEMENT REQUEST: a request made by a wear and carry permit holder to replace an existing wear and carry permit, due to loss or theft, in accordance with the Annotated Code of Maryland 29.03.02.10 and 29.03.02.11. The replacement permit will be issued with the same expiration date as the permit being replaced.

SUBSEQUENT APPLICATION: the filing for a different wear and carry permit type, in addition to an already existing wear and carry permit. A subsequent permit expires on the last day of the holder's birth month, following two years after the date the permit is issued.

SECURITY GUARD: a certified individual who is employed by and provides security guard services on behalf of any licensed security guard agency, pursuant to the Annotated Code of Maryland, Business Occupation and Professions, Title 19.

SPECIAL POLICE OFFICER: an individual who holds a valid special police officer commission, issued under the Annotated Code of Maryland, Public Safety Article, Title 3.

.04 References

18 USC §922(g)(1-9)

MD. CODE ANN., PUB. LAW §103-55

MD. CODE ANN., PUB. SAFETY §3-101

MD. CODE ANN., PUB. SAFETY §3-301

MD. CODE ANN., PUB. SAFETY §5-133

MD. CODE ANN., PUB. SAFETY §5-301, *et seq.*

MD. CODE ANN., BUSINESS OCCUPATIONS AND PROFESSIONS §13-101

MD. CODE ANN., BUSINESS OCCUPATIONS AND PROFESSIONS §19-101

COMAR 29.03.02, *et seq.*

COMAR 28.02.01

.05 Procedures

A. Responsibilities

1. The Commander of Licensing Division, or designee, is authorized to act on behalf of the Secretary, of the Maryland State Police, when administering the laws and regulations established for the processing and issuance of handgun permits.
2. The Commander of the Licensing Division, or designee, will conduct an Informal Review when properly requested, by any person who is denied a permit or renewal of a permit or whose permit is revoked or limited, and notify the person who requested the informal review of the

SOP 29-19-004
Processing of Handgun Permit Applications

decision, in writing, within 30 days after receipt of the request for informal review, pursuant to the Annotated Code of Maryland, Public Safety Article, §5-311.

3. The Handgun Permit Unit personnel will:

- a. ensure all permits are issued in accordance with: 18 U.S.C. §922(g) (1-9), Annotated Code of Maryland, Public Safety Article, Title 5, Sub-Title 3, Annotated Code of Maryland, Public Safety Article §5-133 and the Code of Maryland Regulations, Title 29.03.02.
- b. within three business days of receipt, applicable applications will be forwarded to the Administrative Investigation Unit, to conduct a background investigation, as required in the Annotated Code of Maryland, Public Safety Article, §5-306.
- c. ensure all applicants meet the requirements outlined in the Annotated Code of Maryland, Public Safety Article, §5-306.
- d. ensure approval or denial of all initial applications within 90 days of the receipt of an accepted application.
- e. ensure approval or denial of all renewal applications within 45 days of the receipt of an accepted application.
- f. track all applications, initial and renewal, to ensure issuance within 90 days or 45 days respectively.
- g. act as the liaison between the Licensing Division, the Handgun Permit Review Board and the Office of Administrative Hearings.
- h. maintain all records, and track all decisions issued by the Handgun Permit Review Board and the Office of the Administrative Hearings.

B. The Processing of Handgun Permit Applications and Requests

1. Applications include original, renewal and subsequent. Requests include modifications and replacement permits
2. For processing procedures for each application type and request, see the Handgun Permit Unit Wear and Carry Permit Desktop Procedure.

C. Required Language on all Issued Permits

1. "Not Valid Where Firearms are Prohibited by Law."
2. "MD Only," except armored car drivers/guards.
3. "Contact MD Gun Center, Prior to Law Enforcement Action."

D. Handgun Permit Categories

1. Personal Protection
2. Assumed Risk Positions
3. Federal Employees or Contractors who possess an active "Top Secret" or higher security clearance

SOP 29-19-004
Processing of Handgun Permit Applications

4. Business Activities
5. Private Security Officer
6. Private Organization Security Team Member
7. Regulated Profession
 - a. Licensed Security Guard
 - b. Licensed Private Detective
 - c. Armored Car Driver
 - d. Special Police Officer

E. Handgun Permit Restrictions

The Secretary may limit the geographic area, circumstances or times of the day, week, month or year in which a permit is effective. (Annotated Code of Maryland, Public Safety Article, §5-307) Handgun permit restrictions may include, but may not be limited to the following:

1. Personal Protection: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
2. Law Enforcement Officers: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
3. Assumed Risk Positions: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
4. Federal Employees or Contractors who possess an active "Top Secret" or higher security clearance: Valid while maintaining employment as an active, reserve, civilian or contractor employee for (name of federal agency) (MD ONLY) (Not VALID where firearms are prohibited by law.)
5. Business Owners: NONE (MD ONLY) (Not VALID where firearms are prohibited by law.)
6. Business Employees: Valid between residence and work, and while engaged in any on-site or off-site business activity for (Name of Business) (MD ONLY) (Not VALID where firearms are prohibited by law.)
7. Private SECURITY OFFICER: Valid between residence and work, and while engaged in any on-site or off-site private security activity for (Name of Business) (MD ONLY) (Not VALID where firearms are prohibited by law.)
8. PRIVATE ORGANIZATION SECURITY TEAM MEMBER: Valid to and from residence, while actively engaged as a Security Team Member for (name of organization) (MD ONLY) (Not VALID where firearms are prohibited by law.) or; Valid to and from residence, making off-site financial transactions, while actively engaged as a Security Team Member for (name of organization) (MD ONLY) (Not VALID where firearms are prohibited by law.)
9. Licensed Security Guard: Between residence and (or) armed on any Maryland Licensed Security Guard (or) Private Detective agency job assignment or property only, and while actively engaged as a certified Armed Security Guard (or) Private Detective for same. (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)
10. Licensed Private Detective: Between residence and (or) armed on any Maryland Licensed Security Guard (or) Private Detective agency job assignment or property only, and while actively

SOP 29-19-004
Processing of Handgun Permit Applications

engaged as a certified Armed Security Guard (or) Private Detective for same. (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)

11. Armored Car Driver: Between residence and (or) armed on, (name of agency job assignment or property) only, and while actively engaged as an Armored Car Driver/Guard for same (ON DUTY ONLY) (Not VALID where firearms are prohibited by law.)
12. Special Police Officer: Between residence and (or) armed on, (name of agency job assignment or property) only, and while actively engaged as a Special Police Officer for same (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)
13. Bail Bondsman: Between residence and while acting as an employee or agent of a licensed bail bondsman (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited by law.)

F. Required Fees

1. Original handgun permit: \$75.00
2. Renewal and/or subsequent handgun permit: \$50.00
3. Modified and/or replacement handgun permit: \$10.00
4. In accordance with the Annotated Code of Maryland, Public Safety, §5-304, the Secretary may not charge an application fee to a State, county or municipal public safety employee who is required to carry, wear or transport a handgun as a condition of governmental employment; or a retired law enforcement officer of the State or county or municipal corporation of the State.

G. Required Documents

In addition to documents required for submission (completed and signed application, photograph, training requirements and fees), each handgun permit category, identified below, will require specific documentation to sufficiently authenticate and support the applicant's good and substantial reason for a handgun permit.

1. Personal Protection: Copies of documented evidence that the applicant's life is in imminent danger or is currently being targeted by individuals wishing to do the applicant harm. Documents may include, but may not be limited to: police reports, court documents, orders of protection or other documentation.
2. Law Enforcement / Correctional Officer: Whether retired or active, the applicant is required to submit a copy of their identification card/retirement credentials and a letter from their department stating they retired or are employed in good standing. Former law enforcement / correctional officers are required to submit a letter from their department stating they resigned in good standing.
3. Assumed Risk Positions: Whether active, retired or separated, the applicant is required to submit verification of their employment in an assumed risk position.
4. Active, reserve, civilian or contractual Federal employee with a top-secret government clearance: Written verification from the employee's security manager confirming employment and active clearance level.
5. Business Owner: A copy of verifiable documentation, such as a business or traders license, articles of incorporation / organization, licenses or other legal documents legitimizing an active business entity. A business owner must provide documentation of business activities that


SOP 29-19-004
Processing of Handgun Permit Applications

would justify carrying a handgun. Examples of acceptable business activity documentation can be found in the instructional portion of the permit application.

6. **Business Employee:** A copy of verifiable documentation, such as a business or traders license, articles of incorporation / organization, licenses or other legal documents legitimizing an active business entity. An employee of the business must provide a letter from the owner, verifying employment and the duties and responsibilities performed for that business. A business employee must provide documentation of business activities that would justify carrying a handgun. Examples of acceptable business activity documentation can be found in the instructional portion of the permit application.
7. **Private Security Officer:** A copy of certificates, licenses or articles of incorporation recognizing the legal existence of the business. The security officer must provide a letter from the business, verifying their duties and responsibilities and a specific request for the issuance of a wear and carry permit. If the security officer is involved in off-site activity for the business, verifiable documentation of that activity is required.
8. **Private Organization Security Team Member:** A copy of certificates, licenses or articles of incorporation recognizing the legal existence of the organization. The security team member must provide a letter from the organization, verifying their duties and responsibilities and a specific request for the issuance of a wear and carry permit. If the security team member is involved in the transportation of finances, verifiable documentation of that activity is required.
9. **Security Guard:** All armed security guards must provide the following:
 - a. A certified firearms score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
 - b. A letter from the licensed security guard agency, verifying employment and the purpose for which the employee is required to be armed;
 - c. Ownership of the firearm to be carried in the performance of duties; and
 - d. The location of where the firearm will be stored during off-duty hours.
10. **Private Detective:** All private detectives must provide the following:
 - a. A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
 - b. A letter from the licensed private detective agency, verifying employment and the purpose for which the employee is required to be armed;
 - c. Ownership of the firearm to be carried in the performance of duties; and
 - d. The location of where the firearm will be stored during off-duty hours.
11. **Armored Car Driver:** All armored car drivers must provide the following:
 - a. A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
 - b. A letter from the licensed security services agency, verifying employment and the purpose for which the employee is required to be armed;
 - c. Ownership of the firearm to be carried in the performance of duties; and
 - d. The location of where the firearm will be stored during off-duty hours.

SOP 29-19-004
Processing of Handgun Permit Applications

12. Special Police Officer: All special police officers must provide the following:
- a. A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score, having qualified within one year from the date of submitting the application;
 - b. A letter from the employer, verifying employment and the purpose for which the employee is required to be armed;
 - c. Ownership of the firearm to be carried in the performance of duties; and
 - d. The location of where the firearm will be stored during off-duty hours.
13. Bail Bondsmen: All bail bondsmen must submit the following:
- a. A letter from a licensed agency, verifying employment and describing the employee's job functions;
 - b. Ownership of the weapon to be carried and the agency's request for the employee to be armed; and
 - c. Owners of a bail bondsman company are required to submit a copy of their Maryland Insurance Commission Certificate.

Approved: 
Captain A. J. Rossignol
Captain A. J. Rossignol
Division Commander 08/05/19

SB 826 amendment.pdf

Uploaded by: Carozza, Senator Mary Beth

Position: FWA



SB0826/423624/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

07 MAR 21
14:43:30

BY: Senator Carozza

(To be offered in the Judicial Proceedings Committee)

AMENDMENT TO SENATE BILL 826

(First Reading File Bill)

On page 3, in line 7, after “NURSE” insert “WITH AN ACTIVE LICENSE IN GOOD STANDING”; and in line 8, after “PRACTITIONER” insert “WITH AN ACTIVE LICENSE IN GOOD STANDING”.

SB 826 Senator Carozza Written Testimony Final.pdf

Uploaded by: Carozza, Senator Mary Beth

Position: FWA

MARY BETH CAROZZA
Legislative District 38
Somerset, Wicomico,
and Worcester Counties

Education, Health, and Environmental Affairs
Committee



Annapolis Office
James Senate Office Building
11 Bladen Street, Room 314
Annapolis, Maryland 21401
410-841-3645 • 301-858-3645
800-492-7122 Ext. 3645
Fax 410-841-3006 • 301-858-3006
MaryBeth.Carozza@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

March 10, 2021

The Senate Judicial Proceedings Committee
Senate Bill 826 Handgun Permits – Qualifications – High-Risk Occupations
Statement of Support by Bill Sponsor Senator Mary Beth Carozza

Thank you, Chair Smith, Vice Chair Waldstreicher, and members of the Senate Judicial Proceedings Committee for this opportunity to present and request your support on **Senate Bill 826 Handgun Permits – Qualifications – High-Risk Occupations**. This allows a handgun permit to be issued based on specified high-risk occupations including a correctional officer, a parole and probation officer, a firefighter, an emergency medical technician, a rescue squad member, a security guard for a church or religious organization, a physician, a physician’s assistant, a nurse, or a nurse practitioner.

Current law permits that an applicant for a handgun permit must, among other requirements, 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. Senate Bill 826 would permit specified high-risk occupations to be included as a sufficient reason to hold a hand-gun permit.

This legislation is essential for our public servants and first responders as it gives them security and the ability to protect themselves in the high-risk environments they face on a daily basis.

We expect and sometimes take for granted that our first responders and other high-risk public safety professionals will be there for us, twenty-four hours a day, seven days a week, especially during the COVID-19 pandemic. When they are called into action, whether at their workplace or on the scene, our front-line responders put themselves in a position to assist in so many different scenarios. They go into drug and criminal areas to respond to the call, and they have faced violent acts on the scene of an overdose or someone coming out of a seizure, or angry and disgruntled family members who sometimes lash out in violence when they lose a loved one. Our front-line workers, our heroes, put themselves in harm’s way, in life-threatening situations, each and every day.

The high-risk occupations set forth in this bill fully satisfy the Maryland State Police's existing requirements for an "assumed risk" position. These front-line heroes should not have to actually suffer an attack or prove actual, documented threats in order to secure a permit for personal protection. We should support our front-line public safety professionals working for us in these high-risk occupations and allow them to protect themselves.

My panel today, you will hear from some of these high-risk occupations that will explain why this legislation is important to their physical safety while being in a high-risk environment on a day-to-day basis.

I believe this is a reasonable request given the potential harm these high-risk occupations face to protect and serve our communities. I respectfully ask my colleagues on the Senate Judicial Proceedings Committee for a favorable report of Senate Bill 826.

Thank you for your kind consideration.

SB826_MNADV_OPP.pdf

Uploaded by: Shapiro, Melanie

Position: UNF



BILL NO: Senate Bill 826
TITLE: Handgun Permits – Qualifications – High–Risk Occupations
COMMITTEE: Judicial Proceedings
HEARING DATE: March 10, 2021
POSITION: **OPPOSE**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the Senate Judicial Proceedings Committee to issue an unfavorable report on SB 826.**

The Supreme Court stated in *District of Columbia v. Heller* that “[l]ike most rights, the right secured by the *Second Amendment* is not unlimited.”¹ Current Maryland law sets reasonable standards to obtain a permit to wear, carry, or transport a handgun. Senate Bill 538 seeks to vastly expand the current standards regarding whom may be granted a permit to carry, wear, or transport a handgun. Pursuant to Md. PUBLIC SAFETY Code Ann. § 5-306(a)(6)(ii), a person must have a “good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger.” Senate Bill 826 would alter the “good and substantial reason” standard to allow persons employed in a list of 10 different professions who want a permit to carry, wear or transport a handgun to obtain one.

According to the 2021 Fiscal Note for this bill approximately 90,000 people would qualify based solely on profession for a carry, wear, or transport permit with an anticipated increase of 30,000 permit applications. The Maryland’s wear, carry, or transport handgun law is well-balanced and allows for those that can demonstrate a good and substantial reason to obtain a permit. There is no basis to broadly expand this statute for these professions. Any of these individuals can obtain a wear, carry, or transport handgun permit with the requisite good and substantial reason. With the knowledge that the presence of guns increases the risk of domestic violence homicide MNADV is deeply concerned about the potential impact of SB 826 for victims of domestic violence.

¹*District of Columbia v. Heller*, 554 U.S. 570, 626 (2008).

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org



Higher rates of firearm ownership correlate to a higher rate of domestic violence homicide according to a 2019 study.² There is a 65% higher incidence rate of domestic firearm homicide in the states with the highest firearm ownership compared to states with lower ownership rates.³ Since women are the most common victims of domestic violence homicide, they are most at risk with increased gun ownership.⁴ Black women are disproportionately the victims of domestic violence homicide with a firearm with an estimated 51.3% of Black adult female homicides found to be related to intimate partner violence.⁵ The risk of homicide for women increases by 500% with the presence of a gun in the home.⁶

For the above stated reasons, the **Maryland Network Against Domestic Violence urges an unfavorable report on SB 826.**

² Kivisto, A.J., Magee, L.A., Phalen, P.L., Ray, B.R. (2019). Firearm ownership and domestic versus nondomestic homicide in the U.S. American Journal of Preventive Medicine, Abstract:

[https://www.ajpmonline.org/article/S0749-3797\(19\)30197-7/fulltext#articleInformation](https://www.ajpmonline.org/article/S0749-3797(19)30197-7/fulltext#articleInformation)

³ Merovsh, Sarah. "Gun Ownership Rates Tied to Domestic Homicides, but Not Other Killings, Study Finds," NY Times, (July 22, 2019) <https://www.nytimes.com/2019/07/22/us/gun-ownership-violence-statistics.html>

⁴ *Id.*

⁵ Petrosky, E., Blair, J.M., Betz, C.J., Fowler, K.A., Jack, S.P.D., & Lyons, B.H. (2017). Racial and ethnic differences in homicides of adult women and the role of intimate partner violence - United States, 2003-2014. MMWR. Morbidity and Mortality Weekly Report, 66(28), 741-746. Retrieved from <https://www.cdc.gov/mmwr/volumes/66/wr/pdfs/mm6628a1.pdf>.

⁶ The National Domestic Violence Hotline, Retrieved 1/29/21, <https://www.thehotline.org/resources/safety-planning-around-guns-and-firearms/>

For further information contact Melanie Shapiro • Public Policy Director • 301-852-3930 • mshapiro@mnadv.org

4 - JPR - SB 826 - BON - LOIWA.pdf

Uploaded by: Bennardi, Maryland Department of Health /Office of Governmen

Position: INFO



Board of Nursing

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

March 10, 2021

The Honorable William C. Smith
Chair, Judicial Proceedings Committee
2 East Miller Office Building
Annapolis, MD 21401-1991

RE: SB 826 – Handgun Permits – Qualifications – High Risk Occupations – Letter of Information with Amendments

Dear Chair Smith and Committee Members:

The Maryland Board of Nursing (“the Board”) respectfully submits this letter of information with amendments for SB 826 – Handgun Permits – Qualifications – High Risk Occupations. This bill requires the Secretary of State Police to issue a permit to carry, wear, or transport a handgun to a person who meets certain requirements and is employed in a certain profession.

Nurses and nurse practitioners licensed by the Board must maintain an active license in good standing in order to be employed as a nurse or nurse practitioner. A registered nurse or licensed practical nurse is required to meet all renewal requirements under 10.27.01.13, Code of Maryland Regulations (COMAR). A registered nurse or licensed practical nurse shall renew biannually not later than the 28th day of the licensee’s birth month (COMAR 10.27.01.13). An individual applying for active licensure renewal shall show evidence of 1,000 hours of active nursing practice or graduation from an approved nursing program within 5 years immediately preceding the date of the renewal application. (COMAR 10.27.01.13G).

Registered Nurses and Licensed Practical Nurses may choose the option of completing thirty (30) Continuing Education Units (CEUs) to satisfy the requirements for license renewal, 10.27.01.13G(1). An individual applying for active licensure renewal who does not meet the requirements of §G shall be required to successfully complete a Board-approved refresher program or Board-approved preceptorship program prior to renewal of the license. Practicing registered nursing or licensed practical nursing on an expired license is prohibited and subject to discipline under Health Occupations Article, §8-316(a), Annotated Code of Maryland.

A nurse practitioner must meet all of the requirements under COMAR 10.27.07.04. A certification as a nurse practitioner expires at the same time as the nurse practitioner’s registered nursing license, 10.27.07.04A. The certified nurse practitioner shall ensure that the Board has a record of each renewed national certification, 10.27.07.04D. Practicing on an expired national certification is prohibited and subject to discipline under Health Occupations Article, §8-316(a), Annotated Code of Maryland.

The Board proposes the following amendments to SB 826:

On page 3, line 7 after “NURSE” insert “WITH AN ACTIVE LICENSE IN GOOD STANDING”;

On page 3, line 8 after “PRACTITIONER” insert “WITH AN ACTIVE LICENSE IN GOOD STANDING”.

For the reasons discussed above, the Board of Nursing respectfully submits this letter of information with amendments.

I hope this information is useful. For more information, please contact Iman Farid, Health Policy Analyst, at (410) 585 – 1536 (iman.farid@maryland.gov) or Rhonda Scott, Deputy Director, at (410) 585 – 1953 (rhonda.scott2@maryland.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Hicks', with a long horizontal flourish extending to the left.

Gary N. Hicks
Board President

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

SB 826_Handgun Permits_Qualif_High Risk Occupation

Uploaded by: Delbridge, Theodore

Position: INFO



March 10, 2021

State of Maryland

**Maryland
Institute for
Emergency Medical
Services Systems**

653 West Pratt Street
Baltimore, Maryland
21201-1536

*Larry Hogan
Governor*

*Clay B. Stamp, NRP
Chairman
Emergency Medical
Services Board*

*Theodore R. Delbridge, MD, MPH
Executive Director*

*410-706-5074
FAX 410-706-4768*

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

Re: SB 826-Handgun Permits-Qualifications-High Risk Occupations

Dear Chairman Smith,

I would like to provide you and the committee information as you consider SB 0826-Handgun Permits-Qualifications-High Risk Occupations. As drafted, the bill would require the Secretary of the State Police to issue a permit to carry, wear, or transport a handgun to certain individuals who meet certain requirements including completion of a firearms training course approved by the Secretary of State Police, and who are employed in certain professions including but not limited to Firefighters, Emergency Medical Technicians, and Rescue Squad Members.

As you may know, the Maryland Institute for Emergency Medical Services Systems (MIEMSS) is an independent state agency responsible for the coordination of emergency medical services in Maryland. MIEMSS is governed by the State EMS Board comprised of members appointed by the Governor.

MIEMSS has significant concerns of the unintended consequences of SB 826. Standards of care for dealing with violent patients do not include the use of firearms or deadly force. EMS clinicians or their agencies may be found negligent or liable if they harm a patient, clinician, or bystander. Additionally, there is the concern that an EMS clinician's weapon could be taken and used against the clinician.

MIEMSS advocates for the use of scientific, evidence-based strategies when making policies for EMS in Maryland. Data shows that because assaults to EMS clinicians are occurring nationally, a number of methods to protect EMS clinicians, including handguns, have been employed, but none have been shown to reduce the risk for EMS clinicians; there have been no evidence-based approaches to the problem. <https://www.jems.com/2019/10/08/protecting-ems-personnel-from-assault/>

I hope you will find this information useful as you consider SB 826. Please feel free to contact me if I can be of assistance.

Sincerely,

Theodore R. Delbridge, MD, MPH
Executive Director, MIEMSS

Cc: Members of the Judicial Proceedings Committee

SB_826_Background Information and Documentation-T.

Uploaded by: Josselyn, John

Position: INFO



2A Maryland

2A@2AMaryland.org

**Background Information and Documentation
SB 826 - Handgun Permits – Qualifications – High–Risk Occupations**

**Questions often asked, but not answered or not fully answered during JPR
Committee Hearings:**

1. Comparison of crime rates: Maryland v. Contiguous surrounding States.
 2. Legality of the use of deadly force to defend property.
 3. Legality of the use of deadly force to defend one’s life or that of another.
 4. Duty to retreat when confronted with a threat in public.
 5. Duty to retreat when confronted with a threat in the home.
 6. Frequency of persons carrying without a permit to wear and carry a handgun.
-

Overview

Of the 6 jurisdictions reviewed (Maryland, Pennsylvania, Virginia, Washington, D.C., Delaware and West Virginia), Maryland is the only jurisdiction with a strict “may issue” approach to the issuance of permits to wear and carry a handgun.

Pennsylvania, Virginia, and Washington, D.C. are “shall issue” which means any citizen who is not otherwise prohibited from purchasing or possessing a handgun will, upon application, be issued a permit to wear and carry a handgun.

Delaware is a “may issue” State, but effectively functions as a “shall issue” State. While West Virginia is a true “Constitutional Carry” State which means any citizen, who is not otherwise prohibited from purchasing or possessing a handgun, may carry a handgun without the need for a State issued permit. West Virginia does issue physical carry permits for use in other States where out of State carry permits are recognized.

SB 826 - Background Information and Documentation

1. Comparison of crime rates: Maryland v. Contiguous Surrounding Jurisdictions:

Overall, the FBI data indicate that Maryland's crime rates, especially homicides and violent crimes, are higher than the rates in surrounding jurisdictions. This data runs contrary to assertions by gun control advocates that allowing law-abiding citizens to carry firearms leads to an increase in murders and crimes of violence. *Source:* <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-4>

2. Circumstances under which private citizens can use deadly force to defend property:

This issue is not addressed in statute. There is no authority for a private citizen to use deadly force to protect property. *Source: PIA to MD Atty General 1999, Question #7 (copy attached)*

3. Circumstances under which private citizens can use deadly force to protect life:

This issue is not addressed in statute. A private citizen may use deadly force in self-defense or defense of another if death or serious bodily harm is threatened. The citizen must have reasonable grounds to believe himself or another, in apparent immediate danger of death or serious bodily harm. See, *Guerriero v. State*, 213 Md. 545 (1957)

Source: PIA to MD Atty General 1999, Question #6 (copy attached)

4. Circumstances under which private citizens have an obligation to retreat when confronted by an attacker on a public street or in a public place:

This issue is not addressed in statute. Generally, Maryland law does impose a duty to retreat when confronted in a public place. See, *Redcross v. State of Maryland*, 121 Md. App. 320 (1998)

Source: PIA to MD Atty General 1999, Question #9 (copy attached)

5. Circumstances under which private citizens have an obligation to retreat when confronted by an intruder in the home:

This issue is not addressed in statute. There is no duty to retreat if one is attacked [sic] in his or her own home. See, *Redcross v. State of Maryland*, 121 Md. App. 320 (1998) *Source: PIA to MD Atty General 1999, Question #9 (copy attached)*

SB 826 - Background Information and Documentation

6. Frequency of persons carrying a handgun without a permit to wear and carry a handgun.

Approximately 1,019 firearm traces in Maryland during 2019 were related to concealed weapon incidents.

Source: ATF Trace Report 2019 – Maryland, page 6 (copy attached)

John H. Josselyn
2A Maryland
March 6, 2021

**Crime in the United States
2019 FBI Report
Maryland v. Contiguous Jurisdictions
<https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-4>
Handgun Permit Data by state added by 2A Maryland**

Table 4

Crime in the United States¹

by Region, Geographic Division, and State, 2018–2019

Area (with info type of permit system, number of permits and percent of population with	Year	Population ²	Violent crime ³		Murder and nonnegligent manslaughter		Rape (revised definition) ⁴		Robbery		Aggravated assault		Property crime		Burglary		Larceny-theft		Motor vehicle theft	
			Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000
a handgun carry permit																				
United States Total (18,660,000 permits estimated) or approximately 5.7% of the US population	Per+B6:B26 2019	326,687,501 328,239,523	1,252,399 1,245,410	383.4 379.4	16,374 16,425	5.0 5.0	143,765 139,815	44.0 42.6	281,278 267,988	86.1 81.6	810,982 821,182	248.2 250.2	7,219,084 6,925,677	2,209.8 2,109.9	1,235,013 1,117,696	378.0 340.5	5,232,167 5,086,096	1,601.6 1,549.5	751,904 721,885	230.2 219.9
	Percent change		-0.6 -1.0		+0.3 -0.2		-2.7 -3.2		-4.7 -5.2		+1.3 +0.8		-4.1 -4.5		-9.5 -9.9		-2.8 -3.3		-4.0 -4.4	
Pennsylvania (shall issue carry permit) 248,487 Active Permits or 2% of population (2019)	2018 2019 Percent change	12,800,922 12,801,989	39,099 39,228	305.4 306.4	784 669	6.1 5.2	4,490 4,351	35.1 34.0	9,854 9,743	77.0 76.1	23,971 24,465	187.3 191.1	190,633 179,665	1,489.2 1,403.4	27,054 23,354	211.3 182.4	150,441 143,921	1,175.2 1,124.2	13,138 12,390	102.6 96.8
	Percent change		+0.3 +0.3		-14.7 -14.7		-3.1 -3.1		-1.1 -1.1		+2.1 +2.1		-5.8 -5.8		-13.7 -13.7		-4.3 -4.3		-5.7 -5.7	
Delaware (may issue carry permit operates as shall issue) no data published	2018 2019 Percent change	965,479 973,764	4,079 4,115	422.5 422.6	46 48	4.8 4.9	334 310	34.6 31.8	861 790	89.2 81.1	2,838 2,967	293.9 304.7	22,405 21,931	2,320.6 2,252.2	3,154 2,968	326.7 304.8	17,780 17,359	1,841.6 1,782.7	1,471 1,604	152.4 164.7
	Percent change		+0.9 *		+4.3 +3.5		-7.2 -8.0		-8.2 -9.0		+4.5 +3.7		-2.1 -2.9		-5.9 -6.7		-2.4 -3.2		+9.0 +8.1	
District of Columbia (shall issue carry permit) 3,000 (estimated) Active Permits or .4% of population	2018 2019 Percent change	701,547 705,749	6,995 7,403	997.1 1,049.0	160 166	22.8 23.5	450 345	64.1 48.9	2,415 2,713	344.2 384.4	3,970 4,179	565.9 592.1	30,726 30,821	4,379.7 4,367.1	1,788 1,843	254.9 261.1	26,345 26,645	3,755.3 3,775.4	2,593 2,333	369.6 330.6
	Percent change		+5.8 +5.2		+3.8 +3.1		-23.3 -23.8		+12.3 +11.7		+5.3 +4.6		+0.3 -0.3		+3.1 +2.5		+1.1 +0.5		-10.0 -10.6	
Maryland (may issue carry permit) 25,986 (2020) Active Permits or .4% of population	2018 2019 Percent change	6,035,802 6,045,680	28,330 27,456	469.4 454.1	491 542	8.1 9.0	1,991 1,913	33.0 31.6	9,716 9,203	161.0 152.2	16,132 15,798	267.3 261.3	122,945 117,901	2,036.9 1,950.2	18,910 16,862	313.3 278.9	91,887 89,780	1,522.4 1,485.0	12,148 11,259	201.3 186.2
	Percent change		-3.1 -3.2		+10.4 +10.2		-3.9 -4.1		-5.3 -5.4		-2.1 -2.2		-4.1 -4.3		-10.8 -11.0		-2.3 -2.5		-7.3 -7.5	
Virginia (shall issue carry permit) 429,837 active permits (estimated) or 7% of the population	2018 2019 Percent change	8,501,286 8,535,519	17,357 17,753	204.2 208.0	417 426	4.9 5.0	3,072 2,816	36.1 33.0	3,610 3,524	42.5 41.3	10,258 10,987	120.7 128.7	142,931 140,213	1,681.3 1,642.7	15,659 13,900	184.2 162.8	116,496 116,044	1,370.3 1,359.5	10,776 10,269	126.8 120.3
	Percent change		+2.3 +1.9		+2.2 +1.7		-8.3 -8.7		-2.4 -2.8		+7.1 +6.7		-1.9 -2.3		-11.2 -11.6		-0.4 -0.8		-4.7 -5.1	
West Virginia (Constitutional Carry - no permit required)	2018 2019 Percent change	1,804,291 1,792,147	5,411 5,674	299.9 316.6	76 78	4.2 4.4	716 754	39.7 42.1	333 378	18.5 21.1	4,286 4,464	237.5 249.1	27,888 28,376	1,545.6 1,583.4	5,916 5,891	327.9 328.7	19,783 20,066	1,096.4 1,119.7	2,189 2,419	121.3 135.0
	Percent change		+4.9 +5.6		+2.6 +3.3		+5.3 +6.0		+13.5 +14.3		+4.2 +4.9		+1.7 +2.4		-0.4 +0.3		+1.4 +2.1		+10.5 +11.3	

J. JOSEPH CURRAN, JR.
ATTORNEY GENERAL

CARMEN M. SHEPARD
DEPUTY ATTORNEY GENERAL

DONNA HILL STATON
DEPUTY ATTORNEY GENERAL

OFFICES OF



THE ATTORNEY GENERAL

DEPARTMENT OF MARYLAND STATE POLICE

1201 REISTERSTOWN ROAD

PIKESVILLE, MARYLAND 21208

(410) 653-4223

FAX (410) 653-4270

Toll Free 1-800-525-5555

BETTY STEMLEY SCONION
PRINCIPAL COUNSEL

MARK H. BOWEN
ASSISTANT ATTORNEY GENERAL

DONALD E. HOFFMAN
ASSISTANT ATTORNEY GENERAL

H. SCOTT CURTIS
ASSISTANT ATTORNEY GENERAL

RICHARD M. KASTENDIECK
ASSISTANT ATTORNEY GENERAL

March 31, 1999

Mr. John H. Josselyn
Associated Gun Clubs of Baltimore, Inc.
P.O. Box 20102
Towson, Maryland 21284-0102

Dear Mr. Josselyn:

I have been asked by Attorney General Curran to respond to your letter of March 2, 1999. In your letter, you asked for clarification as to certain issues codified by existing Maryland law. In point of fact, with one exception, the nine issues you list are not codified in the Annotated Code of Maryland. To the extent that these issues have been addressed by Maryland's appellate courts, I will provide you with the relevant case citations.

1 & 2) Police responsibility and/or obligation to protect and defend private citizens, to protect society as a whole.

The Maryland State Police is charged, in Article 88B, Section 3 of the Annotated Code with "the general duty to safeguard the lives and safety of all persons within the State, to protect property, and to assist in securing to all persons the equal protection of the laws." However, the Maryland Court of Appeals has determined that police do not have a duty to protect individual citizens from the actions of other citizens absent a special relationship between the police and the victim or the police and the offender. See, Ashburn v. Anne Arundel County, 306 Md. 617 (1986)

3) Police civil liability when response time is too slow to prevent injury or death.

This issue is not addressed in statute. I have been able to find no appellate case law imposing such liability.

4) Circumstances under which the police can use deadly force to protect life.

This issue is not addressed in statute. In Tennessee v. Garner, 471 U.S. 1 (1985), the Supreme Court ruled that the use of deadly force was constitutionally permissible to protect the life of the officer or the life of another.

5) Circumstances under which the police can use deadly force to protect property.

This issue is not addressed in statute. There is no authority for a police officer to use deadly force to protect property.

6) Circumstances under which private citizens can use deadly force to protect life.

This issue is not addressed in statute. A private citizen may use deadly force in self defense or defense of another if death or serious bodily harm is threatened. The citizen must have reasonable grounds to believe himself, or another, in apparent immediate danger of death or serious bodily harm. See, Guerriero v. State, 213 Md. 545 (1957)

7) Circumstances under which private citizens can use deadly force to protect property.

This issue is not addressed in statute. There is no authority for a private citizen to use deadly force to protect property.

8) Circumstances under which private citizens have an obligation to retreat when confronted by an intruder in the home.

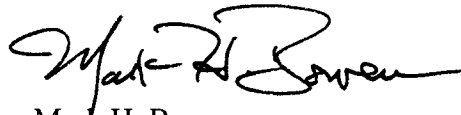
This issue is not addressed in statute. There is no duty to retreat if one is attacked in his or her own home: See, Redcross v. State of Maryland, 121 Md.App. 320 (1998).

9) Circumstances under which private citizens have an obligation to retreat when confronted by an attacker on a public street or in a public place.

This issue is not addressed in statute. Generally, Maryland law does impose a duty to retreat when confronted in a public place. See, Redcross v. State of Maryland, 121 Md.App. 320 (1998).

This letter does not constitute an official opinion of the Office of the Attorney General. You may wish to consult with your own counsel to obtain detailed advice on the issues you have raised.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark H. Bowen". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark H. Bowen
Assistant Attorney General
Maryland State Police

Top Categories Reported on Firearm Traces with a Maryland Recovery

January 1, 2019 – December 31, 2019

Possession of Weapon	Family Offense	Health - Safety	Firearm Under Investigation	Carrying Concealed Weapon	Found Firearm	Dangerous Drugs	Weapon Offense	Simple Assault	Homicide
1,705	1,687	1,123	1,027	1,019	558	403	394	329	234

NOTE: There were 986 additional traces that were associated with other categories.