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TO: The Honorable Luke Clippinger
Chair, Judiciary Committee

FROM: The Office of the Attorney General

RE: HB0845 – Public Safety – Permit to Carry, Wear, or Transport a Handgun –
Qualifications – **Letter of Opposition**

The Office of the Attorney General urges an unfavorable report of House Bill 845. The bill would “clarify[] that personal protection or self-defense can qualify as a good and substantial reason,”¹ perhaps even in the absence of an “apprehended danger.” Amending the bill in this fashion risks creating a gaping hole in the public safety protection that the law currently provides.

Under current Maryland law, an adult 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.”² The Maryland Department of State Police’s Handgun Permit Unit, which processes permit applications, has identified four non-exclusive categories where the “good and substantial reason” requirement is met.³ First, a person has a “good and substantial reason” to carry a firearm when carrying out certain business activities, such as persons moving handguns to and from places of legal purchase and sale.⁴ Second, certain regulated occupations also qualify, such as security guards.⁵ Third, people employed in “assumed-risk” professions—such as judges, prosecutors, public defenders, police officers, and correctional officers—also have a “good and substantial reason” for carrying a firearm.⁶ And fourth, personal protection and self-defense qualify as a “good and substantial reason” if they are

¹ H.B. 845, at 1:3–4, 2021 Leg., 422d Sess. (Md. 2021).

² Md. Code Ann., Pub. Safety § 5–306(a)(6)(ii) (West 2021).

³ See *Woollard v. Gallagher*, 712 F.3d 865, 869–70 (4th Cir.), *cert. denied*, 571 U.S. 952 (2013).

⁴ See *id.*

⁵ See *id.*

⁶ See *id.*

invoked against “apprehended danger.”⁷ All four categories are characterized by the presence of some inherent risk of danger.

The proposed legislation arguably modifies the fourth category by eliminating the “apprehended danger” requirement when assessing “personal protection” or “self-defense.” As amended by the proposed legislation, the provision would allow someone to carry a firearm if he or she has a “as good and substantial reason to wear, carry, or transport a handgun, such as **personal protection, self–defense, or** a finding that the permit is necessary as a reasonable precaution against apprehended danger.”⁸ Because the word “or” is typically read in the disjunctive, the proposed legislation may be interpreted as if “personal protection,” “self-defense,” and “necessary as a reasonable precaution against apprehended danger” are different categories.⁹ The proposed legislation therefore arguably modifies Maryland law by allowing an applicant to justify an application for a handgun license simply by invoking personal protection or self-defense generally, without also having to show the existence of an “apprehended danger.”

Maryland’s compelling interest for public safety and to prevent firearm crimes led this State to regulate the public carrying of concealed and easily concealable weapons. HB 845 diverts us from that goal.¹⁰

For the foregoing reasons, the Office of the Attorney General urges an unfavorable report of House Bill 845.

cc: Members of the Judiciary Committee

⁷ *See id.* (emphasis added).

⁸ H.B. 845, at 3:1–2 (bold in original) (small caps omitted).

⁹ Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* § 12, at 116 (2002) (“Under the conjunctive/disjunctive canon, *and* combines items while *or* creates alternatives. . . . With a conjunctive list, all . . . things are required—while with the disjunctive list, at least one of the [things] is required, but any one . . . satisfies the requirement.”) (italics in original).

¹⁰ *See, e.g.*, 1894 Md. Laws ch. 547 (stating that “reasonable precaution against apprehended danger[.]” must be established to carry a weapon in the public).