

Art_Novotny_FAV_SB533.pdf

Uploaded by: Art Novotny

Position: FAV

Testimony of Art Novotny in SUPPORT of SB533

Theft of a handgun is a serious crime and should be treated as such...isn't that just common sense? No one "inadvertently" steals a handgun, nor do they do it for non-nefarious purposes. Honestly, a lot of people are surprised to find out that theft of a handgun is not already a felony.

Please support this bill.

Thank you,
Art Novotny
Aberdeen, MD

Theft of Handgun 2022 SB533.pdf

Uploaded by: Justin Ready

Position: FAV



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

February 16, 2022

SB 533 Criminal Law - Theft of a Handgun

Chairman Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

Senate Bill 533 would classify the theft of a handgun as a separate felony offense. The first conviction would impose an additional 5 years imprisonment with a minimum of 2, and/or \$1,000 fine. The second conviction would impose an additional 10 years imprisonment with a minimum of 5 and/or up to \$2,500 fine.

Under current law, Maryland classifies any firearm with a barrel length of 16 inches or shorter as a handgun. Theft of a firearm is subject to general theft statute, which imposes penalties based on the value of the stolen property. Therefore, a first offender handgun theft who steals a \$600 handgun would receive a misdemeanor charge, with a possible 6 months imprisonment and/or a \$500 fine. If they unfortunately do not learn their lesson, the second or subsequent conviction is only a possible 1 year imprisonment and/or a \$500 fine. These penalties are far more fitting to the crime of stealing a handgun, and will do more to deter citizens from doing so.

According to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), 56% of firearm traces in 2020 were pistols/handguns. Additionally, over 1,100 of the traced firearms in 2020 were in the possession of individuals 21 years of age or younger. Around 240 of these firearms were in the possession of 17 year olds and younger. While not every firearm traced by the ATF was previously used in a violent crime, these traces are requested by local law enforcement agencies for the purpose of investigating the sale, transfers and possession of specific firearms.

From this information from 2020 alone, it is clear that the use of a handgun to commit violent crime in Maryland is very common. Current law does not impose serious enough penalties to deter people from stealing a handgun, or using a handgun that you knowingly purchased from someone who stole it. We need to get illegal guns off of the streets of Maryland and reduce the violent crimes they are used to commit.

I respectfully request a favorable report on Senate Bill 533.

SB533 .pdf

Uploaded by: Karla Mooney

Position: FAV

Senate Bill 0533 Criminal Law – Theft of a Handgun

I believe it is time to add to the penalty for theft of handguns. This bill brings to light the fact that a handgun worth in dollars makes it a simple misdemeanor with 6 months or less imprisonment and a fine of \$500 or less. When it is worth so much more when it used in crimes. Stealing a firearm is a serious threat to the community and, as such, well deserving of actual punishment. Just as Armed Robbery is a higher penalty than robbery where no weapon was shown or used, theft of a firearm should have a greater penalty.

Please give this bill a favorable report. I truly believe it addresses an issue our State is struggling to correct.

Karla Mooney

21175 Marigold St

Leonardtown, MD 20650

Resident of District 29C

Multi-discipline Firearms Instructor Maryland QHIC

Maryland State Director for the DC Project

MSI Member

Maryland State Leader for the Armed Women of America (formerly TAWAW Shooting Chapters)

Katie_Novotny_FAV_SB533.pdf

Uploaded by: Katie Novotny

Position: FAV

Written Testimony of Katie Novotny in support of SB533

15 February 2022

I am a member of multiple gun rights organizations. I am a certified Range Safety Officer. I compete in multiple shooting events. I am an avid firearms collector. I support SB533.

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 up to 6 months imprisonment and/or a fine of \$500 for a first offense, and up to 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. It takes four CONVICTIONS in this category before the penalty is enough to make a person prohibited. First and second offenses are often not even prosecuted. Misdemeanors with small penalties are often not pursued by prosecutors. Instead, the guns are displayed proudly on the department's social media accounts as a "look what we got off the streets", with virtually no penalties for the thief.

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 handguns in this state, an increased penalty is in order.

The bottom line is that laws for stealing firearms must have teeth, and they must be prosecuted. People who steal firearms MUST be held responsible and MUST be punished more harshly than an otherwise law abiding citizen who innocently runs afoul of one of the myriad of gun laws in this state, particularly ones that have or will change very recently.

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

Katherine Novotny
District 35B
443-617-7568
Katie.Novotny@hotmail.com

MSI Testimony on SB533 theft of handgun.pdf

Uploaded by: Mark Pennak

Position: FAV



February 16, 2022

WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT, MSI, IN SUPPORT OF SB 533

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), 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 533

The Bill

The purpose of this bill 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. The bill would change these penalties for theft of a firearm to a felony and would impose, on the first offense, a term of imprisonment not exceeding 5 years and/or a fine of \$1,000. Subsequent offenses are punishable by imprisonment for a term not exceeding 10 years and/or a fine not exceeding \$2,500. These punishments are similar to the provisions enacted in 2020 by the Senate in SB 35 which likewise made theft of a firearm a felony and punished such theft with imprisonment for up to 5 years and a fine of \$10,000. SB 35 further required the thief to restore the firearm to the owner or pay the owner the value of the firearm.

The Bill Is 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, falls 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 don’t see any jail time at all, as the Maryland Sentencing Guidelines classify this property crime as the least serious offense listed in the Guidelines and one that is actually punished by mere probation. See <http://www.msccsp.org/Guidelines/Matrices.aspx#property>. Since this offense is

currently a misdemeanor and is not punishable by imprisonment by more than two years, a conviction for this crime is not even sufficient to render the person a disqualified person under federal and state law. See 18 U.S.C. 921(a)(20)(B), Public Safety, § 5-101(g)(3). In contrast, by changing the offense to a felony, this bill would render a person convicted of this crime a disqualified person under federal and state law and thus may not possess modern firearms or modern ammunition for life. See 18 U.S.C. § 922(g), MD Code, Public Safety, § 5-101(g)(2). Give the severe public safety consequences associated with stolen firearms, that result is fully appropriate.

Subsequent possession of any modern firearm or ammunition by a person subject to this firearms disability is punishable by up to 10 years of imprisonment under federal law. See 18 U.S.C. § 924(a)(2). Maryland law likewise bans possession of a regulated firearm (handgun or assault weapon) by a disqualified person. MD Code, Public Safety, § 5-133(b)(1). Possession of a regulated firearm by such a disqualified person is punishable with up to 5 years of imprisonment and/or a fine of \$10,000 under MD Code, Public Safety, § 5-144(b). By contrast, under Maryland law, possession of a regulated firearm by a felon previously convicted of a **crime of violence** is punished more severely; such possession is “subject to imprisonment for **not less** than 5 years and not exceeding 15 years.” MD Code, Public Safety, § 5-133(c)(2). Similarly, simple possession of a rifle or a shotgun by any disqualified person is punishable by imprisonment of 3 years and/or a fine of \$1,000. See MD Code, Public Safety, § 5-205(d).

There is simply no incentive to actually prosecute this theft crime under current law and thus actual prosecution to conviction is very rare. Compare this non-punishment for the thief to the \$500 fine imposed on **the victim** of gun theft for a mere failure **to report** a theft of a firearm within 72 hours. See MD Code, Public Safety, § 5-146. A second offense of a failure to report is punished even more severely, with 90 days of imprisonment and/or a \$500 fine. It should be obvious that thief is more culpable than the victim. Yet, what is the point of reporting the theft if nothing happens to the thief? Indeed, because this theft crime is punished so lightly under current law, the convicted thief **remains free to legally buy and legally possess a firearm, including a handgun or assault weapon.**

Stealing a firearm is a serious threat to the community and, as such, well deserving of actual punishment. The federal BATF has found that stolen firearms are a “threat to community safety as well as law enforcement,” and that “stolen firearms are crime guns; they fuel illicit trafficking and are used by violent criminals to terrorize our communities.” <https://www.foxnews.com/us/where-do-criminals-get-guns>. See also 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 non-punishment accorded to the thief is particularly striking in light of the **severe penalties** that Maryland metes out to otherwise law-abiding citizens of Maryland who inadvertently happen to run afoul of one of the many criminal provisions of Maryland’s firearms law. For example, a new resident of Maryland who 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, risks imprisonment for **5 years** and/or a \$10,000 fine under MD Code, Public Safety, § 5-144(b). A law-abiding person who “receives” a handgun in Maryland

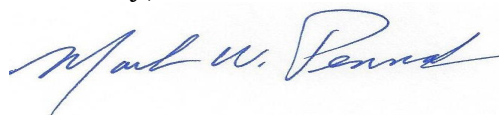
without possessing a Handgun Qualification License issued under by MD Code, Public Safety, § 5-117.1, likewise risks **5 years** imprisonment and/or a fine under Section 5-144.

An otherwise innocent “transport” or possession 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, including a non-resident traveling through the State, 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* showing is required for any of these “crimes.”

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(c)(1),(d), merely carrying **pepper mace** in one’s pocket can be punished by **3 years** of imprisonment and/or a \$1,000 fine. Again, no *mens rea* required.

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. In 2020, this Committee favorably reported on the comprehensive provisions of SB 35 by a vote of 10-1 with only Senator Carter casting a nay vote. We urge a unanimous favorable report on this stand-alone bill.

Sincerely,



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

MFB Testimony on SB 533.pdf

Uploaded by: Michael Burke

Position: FAV



February 15, 2022

**WRITTEN TESTIMONY OF Michael Burke, MSI member,
IN SUPPORT OF SB 533**

I am a Member of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. My associates and I seek to educate the community, including the Maryland General Assembly, about the right of self-protection, the safe handling of firearms, and the responsibility that goes with possessing and/or carrying a firearm in public.

My background includes over 30 years of military service with the US Army and Maryland National Guard as a Military Police officer, Drill Instructor, and Counterintelligence Agent; over 20 years as a Criminal Investigator/Special Agent with numerous Federal law enforcement agencies. 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 pistol instructor. I appear today as a voter and member of numerous other 2nd Amendment advocacy organizations in SUPPORT of **SB 533**.

As noted in my introduction, I have personally been involved in the investigation of various crimes in and around the Baltimore-Washington Metropolitan region, as well as crimes in other parts of the nation, and overseas since 1976. I’ve handled investigations, arrests, and the prosecution of thousands of suspects involved in violent crimes against persons, property and the State. Under current law, theft of a handgun is equivalent to stealing a pack of cigarettes or a bottle of milk.

§ 7-105. Motor vehicle theft.

Motor vehicle theft in Maryland is a felony. That specific crime is defined by statute as a felony. The crime of motor vehicle theft specifically provides imprisonment of a maximum of five years and/or a fine that would not exceed \$5,000. The other part of the penalty is that the defendant would be required to return the motor vehicle to the victim or be obligated to pay the owner the full value of the motor vehicle.

It’s inconceivable that the General Assembly has such a high level of abhorrence of so-called “gun violence” in this state, knowing that the typical crime involving a handgun involves **STOLEN** handguns. If the Senate wishes to reduce violent crime here, let it begin by making it known that stealing a **HANGUN** is considered a **FELONY**, with well-defined penalties.

SB0533_Nicholas_DeTello.pdf

Uploaded by: Nicholas DeTello

Position: FAV

Nicholas DeTello

SB0533 Criminal Law - Theft of a Handgun

Favorable

2/16/2022

I am a student, Eagle Scout, family man, as well as a Civil Rights Enthusiast. I have voted independently, I am currently registered as a Libertarian, and I have a diverse set of views (some left, some right). These include but are not limited to: equality, limiting abuse of police power, protection of minority groups (such as my direct LGBT family) and decriminalization of victimless crimes (drug possession, gun possession, exercising civil rights, etc.). As a Maryland gunowner I am frequently subjected to new and deceptive forms of gun control, all the while theft of a firearm has the same criminal punishment as stealing any other household item. For this reason I urge a favorable report of Senate Bill 0533.

Over the last few years there have been multiple, often successful attempts to pass gun control bills that targeted gun owners, often with arbitrary and capricious requirements or punishments. The long gun transfer bill, which became law this last year, is one example – the penalty for privately selling my neighbor a shotgun, or a .22 bolt action ranges from six months to three years under that law. This year's version of the homemade firearm ban would put a gunowner in jail for three years/\$10k fine per homemade firearm!

What's truly unfortunate is that this desire for stronger penalties doesn't quite extend to *theft* of a firearm. In my mind, stealing a firearm is a true crime – there's always at least one victim, the gunowner who was stolen from, and often subsequent victims who are targeted by the thief, with the stolen firearm. Clearly we should penalize this crime – where we know for certain there were victims, right?

For the purposes of targeting legitimate crime, specifically stealing a firearm, I urge you to vote favorably on Senate Bill 0533.

Nicholas DeTello

Nicholas DeTello

2422 Clydesdale Rd, Finksburg, MD 21048

ndetello@hotmail.com

Support SB0533.pdf

Uploaded by: William Adams

Position: FAV

William Adams
8708 N Pacific Ct
Middletown, MD 21769
240-446-4981

Support for SB0533

I support this bill.

Thank you,
William Adams

sb533.pdf

Uploaded by: Sara Elalamy

Position: UNF

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Joseph M. Getty
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 533
Criminal Law – Theft of a Handgun
DATE: February 9, 2022
(2/16)
POSITION: Oppose

The Maryland Judiciary opposes Senate Bill 533. 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 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. Justin Ready
Judicial Council
Legislative Committee
Kelley O'Connor