

SAO Baltimore City Testimony HB159.pdf

Uploaded by: Hassan Giordano

Position: FAV



OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

March 23, 2023

The Honorable William Smith, Chairman
Senate Judicial Proceedings Committee
2 E. Miller Senate Office Building
Annapolis, Maryland 21401

RE: Support of HB0159 – Criminal Procedure – Warrantless Arrest – Straw Purchase Participant

Dear Chairman Smith and Members of the Committee:

On behalf of State's Attorney Ivan J. Bates and the Office of the State's Attorney for Baltimore City, I ask that you strongly consider supporting HB0159 – Criminal Procedures for Warrantless Arrests of those making straw purchases.

As I am sure you are aware, our office has been laser-focused on trying to tackle the issue of guns, as it relates to the illegal carrying, transportation and/or purchasing of said weapons, which often times lands in the hands of those looking to cause harm in our communities, thereby leading to fatal and non-fatal shootings.

One such issue is that of ghost guns and straw purchases, which has become an increasing problem across the State of Maryland, especially in the City of Baltimore, as they are reported to be attributable to more than 25% of the weapons used in attempted murders and homicides. In fact, in one study published by the Bureau of Alcohol, Tobacco and Firearms, which looked at trafficked and illegal gun purchases, they found that upwards of 41% were straw purchases from federally licensed dealers.

In fact, the issue of straw purchasing was the main factor behind one of Baltimore City's most notorious killers, Nathaniel Dawson, Jr. who purchased firearms bought for him by a 39-year old working mother who used the \$500 he paid her for the \$6,000 worth of weapons she obtained, to help feed her family. She never realized what Mr. Dawson intended to do with these weapons, and never fathomed the thought that he would use them to help run a murderous East Baltimore drug ring and wind up murdering a 10-year old child.

Delegate Attar's insight into this issue is spot-on in our estimation, and we think that any legislation that speaks to cracking down on such crimes and seeks to prevent the proliferation of illegal firearms onto our streets is something worthy of your support.

State's Attorney

Ivan J. Bates



120 East Baltimore Street
Baltimore, MD 21202
443-984-6000

OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY

Thank you for your time and consideration today, and I respectfully urge a favorable vote for HB0159.

Yours in Service,

Ivan J. Bates
State's Attorney for Baltimore City

By: _____
Hassan Giordano
External Affairs Director, Office of the State's Attorney for Baltimore City

HB0159-JPR-FAV.pdf

Uploaded by: Nina Themelis

Position: FAV



BRANDON M. SCOTT
MAYOR

*Office of Government Relations
88 State Circle
Annapolis, Maryland 21401*

HB 159

March 23, 2023

TO: Members of the Judicial Proceedings Committee

FROM: Nina Themelis, Interim Director of Government Relations

RE: House Bill 159 – Criminal Procedure - Warrantless Arrest - Straw Purchase Participant

POSITION: Support

Chair Smith, Vice Chair Waldstreicher, and members of the Committee, please be advised that the Baltimore City Administration (BCA) **supports** House Bill (HB) 159.

Straw purchases are the most common way firearms are diverted into the illegal gun market. A straw purchase is when a prohibited purchaser, such as a convicted felon, uses individuals with clean criminal records who can pass a background check to purchase firearms on their behalf. This bill will increase the penalties for knowingly being a participant in a straw purchase of a firearm by elevating the crime from a misdemeanor to a felony.

Federal law prohibits straw purchases, so ideally the ATF would take the lead on prosecuting straw purchases. Unfortunately, federal prosecutions are rare because ATF has been consistently underfunded and has lacked stable leadership. For example, President Biden’s nominee to lead ATF was blocked by Congress - there has only been one Senate-confirmed ATF Director in the agency’s history. This means states like Maryland have had to enact their own laws regarding straw purchases.

Maryland currently has a law against knowingly participating in a straw purchase, but the penalties are insufficient to hold gun traffickers accountable and incentivize local law enforcement to prioritize investigating and prosecuting these crimes. A 2018 study in the peer-reviewed medical journal *Injury Prevention* found that prosecutions in Pennsylvania for violating the state’s straw purchase law increased by nearly 16 times following the passage of a 2012 law that strengthened penalties for these violations.

“Prosecutors’ decisions to bring charges against law violators are going to be influenced by the magnitude of the penalty or the ease of getting a conviction,” explains lead author Dr. Cassandra Crifasi of Johns Hopkins Center for Gun Violence Prevention and Policy. “[W]hat happened in Pennsylvania shows that stronger penalties for violations increase the incentive for prosecutors to build cases against individuals suspected of engaging in multiple straw purchases. Policies that lead to more prosecutions of background check and straw purchase violations should be considered by lawmakers invested in reducing gun violence in their communities.”

Law enforcement leaders across the country have repeatedly called for strengthening penalties for straw purchases. A July 2021 report by the National Law Enforcement Partnership to Prevent Gun Violence, co-chaired by Chief Jim Johnson (ret.) of the Baltimore County Police Department, recommends states “Strengthen penalties for straw purchasing and make firearms trafficking a federal crime.” The report explains, “Enhanced penalties give law enforcement and prosecutors a crucial tool to induce cooperation from straw purchasers when investigating complex gun trafficking schemes.” This policy was supported by the leading law enforcement organizations, including the International Association of Chiefs of Police (IACP), Major Cities Chiefs Association (MCCA), National Association of Women Law Enforcement Executives (NAWLEE), National Organization of Black Law Enforcement Executives (NOBLE), and Police Executive Research Forum (PERF), and the Police Foundation (PF).

Both academic research and the hard-earned expertise of law enforcement in Baltimore and across the country suggests that supply-side approaches of stronger enforcement such as increasing the penalties for straw purchases will lead to fewer prohibited individuals from accessing firearms. We respectfully request a **favorable** report on HB 159.

HB159.pdf

Uploaded by: Gregory Brown

Position: UNF



Testimony for the Judicial Proceedings Committee

March 23, 2023

HB 159- Criminal Procedure – Warrantless Arrest – Straw Purchase Participant

GREGORY BROWN
PUBLIC POLICY
COUNSEL

UNFAVORABLE

AMERICAN CIVIL
LIBERTIES UNION
OF MARYLAND

3600 CLIPPER MILL
ROAD
SUITE 350
BALTIMORE, MD 21211
T/410-889-8555
F/410-366-7838

WWW.ACLU-MD.ORG

OFFICERS AND
DIRECTORS
HOMAYRA ZIAD
PRESIDENT

DANA VICKERS
SHELLEY
EXECUTIVE DIRECTOR

ANDREW FREEMAN
GENERAL COUNSEL

The ACLU of Maryland and the Maryland Office of the Public Defender oppose HB 159, a bill that would allow for warrantless arrests of those suspected of knowingly being a participant in a straw purchase of a regulated firearm. This bill would violate the Fourth Amendment rights of Marylanders and increase unnecessary interactions with police. Additionally, this bill does not explicitly define who a “participant” is as it relates to the offense. Finally, warrantless arrests are typically reserved for offenses that occur within exigent circumstances, precipitating the need for immediate police action. The mere suspicion of participation in a straw purchase should not trump the needed justification, a warrant, in order to properly facilitate an arrest.

Allowing people suspected of being a participant in a straw purchase to be arrested without a warrant potentially violates the Fourth Amendment and due process protections afforded to Marylanders under the U.S. Constitution. The Fourth Amendment protects against warrantless seizures, in this case, the seizure of a person’s physical body. The offenses laid out in section 2-203(b) are offenses in which probable cause can contemporaneously be established, as the nature of the crime would allow a police officer at the moment to surmise that a crime had just been committed, was being committed, or was about to be committed.

Due to the nature of the offense in subsection (b)(12), knowingly being a participant in a straw purchase of a regulated firearm, an officer would have to meet several elements and have previous knowledge of participants in the situation to establish probable cause. In order for a police officer to suspect that a crime has, is, or is about to take place, the officer would have to see the transfer take place and know that the weapon he sees being transferred is classified as a regulated firearm

under section 5-141 of the Public Safety Article. Additionally, the officer would have to know that this transfer is the result of a straw purchase, meaning he would have to know that the purchaser bought the gun with the intent to give the gun to a person who would otherwise be barred from possessing the gun, subsequently requiring the officer to have prior knowledge that the person the gun is being transferred to is barred from possessing it. It is not conceivable that in an instant moment, an officer would have the requisite knowledge to establish probable cause, therefore resulting in a violation of the Fourth Amendment.

Additionally, adding another offense for which police can perform warrantless arrests is going to negatively impact Black Marylanders by increasing interactions with police. Neither “participant” nor “straw purchase” is defined in the legislation, leaving open to interpretation the conditions needed to be met at a police officer’s discretion. Black communities in Maryland are already overpoliced, over-prosecuted, and over-imprisoned. Adding an additional offense for which police can conduct warrantless arrests will only allow for racial bias and police harassment of Black communities.

For these reasons, the ACLU of Maryland and the Office of the Public Defender urge an unfavorable report on HB 159.

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND

AMERICAN CIVIL
LIBERTIES UNION
FOUNDATION OF
MARYLAND