



**TESTIMONY OF THE CRITICAL ISSUES FORUM: ADVOCACY
FOR SOCIAL JUSTICE OF MONTGOMERY COUNTY, MARYLAND
ON FEBRUARY 7, 2023
BEFORE THE SENATE JUDICIAL PROCEEDINGS COMMITTEE
IN SUPPORT OF THE GUN SAFETY ACT OF 2023 (SB 1)**

Honorable Chair William C. Smith, Vice-Chair Jeff Waldstreicher, and Members of the Senate Judicial Proceedings Committee:

The Critical Issues Forum: Advocacy for Social Justice (CIF), provides this testimony in support of the Gun Safety Act of 2023 (SB 1), with the amendments described in this testimony.

CIF is a coalition of three synagogues, Temple Beth Ami, Kol Shalom, and Adat Shalom, that include over 1,750 households and three denominations of Judaism: Reform, Conservative, and Reconstructionist. CIF serves as a vehicle for our congregations to speak out on policy issues, such as gun violence prevention, that relate to our shared values, including the Jewish traditions that emphasizes the sanctity and primary value of human life.

On June 23, 2022, the Supreme Court issued its decision in *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 142 S.Ct. 2111 (2022), striking down a New York state law requiring individuals who wished to carry a handgun in public to “demonstrate a special need for self-protection distinguishable from that of the general community.” N. Y. Penal Law Ann. §400.00(2)(f). The Court held that New York’s requirement was unconstitutional because it prevented law-abiding citizens with ordinary self-defense needs from exercising their Second Amendment right to keep and bear arms in public for self-defense.

As the Court noted, Maryland is one of seven states to have a similar requirement. Our handgun law requires that a permit to carry a handgun may only be issued if the person seeking it “has good and substantial reasons” for its issuance. MD Code Subtitle 3, Section 5-306(a)(6)(ii). There is no question that this requirement is now unconstitutional, and the State Police have discontinued enforcing it.

The response to this change has been dramatic. Even with this change being in effect only for half of last year, the number of handgun carry permits filed with the State Police rose from 18,717 in 2021 to 101,115 in 2022. And the consequences are predictable. Without action by the legislature, we will begin to see more and more guns in our stores, restaurants, bars, sporting events, houses of worship, and on public transportation. A dramatic increase in violent confrontations is likely to follow. We will also fail to address another grave risk. Research has shown that violent crime involving firearms increases by 29 percent when people are given the right to carry handguns.¹

The Supreme Court’s opinion does provide tools for the State to address these consequences. The Court has recognized that the Second Amendment is not a “regulatory straightjacket” and that it allows states to adopt a “variety’ of gun regulations.” *N.Y. State Rifle & Pistol Ass’n* 142

¹ More Guns, More Unintended Consequences; Donohue, Cai, Bondy, and Cook;

https://www.nber.org/papers/w30190?utm_campaign=ntwh&utm_medium=email&utm_source=ntwg14

S.Ct. at 2133, 2162. In addition, when it comes to restrictions on carrying firearms in public, the Court has recognized three times that states may restrict the carrying of firearms in “sensitive places,” and that such restrictions are rooted in the American historical record. *N.Y. State Rifle & Pistol Ass’n*, 142 S. Ct. at 2133.

Sensitive Places

SB 1 is a necessary, but far from sufficient response to the Court’s *Bruen* decision. Consistent with the principle that states may ban firearms in sensitive places, SB1 would prohibit a person from bringing a firearm onto private property of another without express permission, either to the person or the public generally. It would also prohibit firearms within 100 feet of a “place of public accommodation,” defined as hotels, restaurants, movie theaters, concert halls, sports arenas, and other entertainment venues.

SB1 should be amended to include a wide variety of other locations where firearms create a similar danger. These include:

1. Airports
2. Public transit and public transit facilities
3. Bars, liquor stores, and cannabis distributors
4. Schools, preschools, and childcare centers
5. State and local government facilities, including the State Capitol, courthouses, police stations, correctional facilities, public libraries, public colleges and universities
6. Parks, playgrounds, government owned athletic facilities, and youth sports events
7. Hospitals and community health centers
8. Casinos
9. Polling places, and
10. Houses of worship, unless signs are posted allowing firearms.

Restricting firearms in these additional locations would provide a measure of assurance that our public life will be much less disrupted by the threat, and the reality of gun violence.

In addition to expanding the locations that are gun-free, the statute should also provide safeguards for how handguns are handled in public. Individuals should be required to keep handguns holstered in public, and it should be illegal to point or aim a firearm at another person, or to draw or brandish a firearm in public, except as an act of lawful self-defense.

Handgun Permitting

While SB1 addresses in a limited way the issue of *where* handguns may be brought, it in no way deals with the question of *who* should be issued a handgun carry permit and what procedures the State should follow to make sure that dangerous individuals are not issued such permits. The current law relies heavily on the applicants’ proving that they have “good and substantial reasons” to carry a firearm. When this requirement is eliminated, the burden shifts. The State must determine whether permitting the person filing the application to carry a firearm presents a danger to that person or others. However, the current statutory requirements do not provide sufficient information and guidance for such a determination to be made.

Section 5-305 of the current handgun permit law requires that the State Police apply for a state and national criminal history records check for each applicant. Section 5-306(a) of the current law then lists the following requirements to be issued a permit:

1. An adult (applicant between 18 and 21 years of age may only be issued a wear and carry permit to possess a regulated firearm required for employment),
2. Has not been convicted of a felony or a misdemeanor for which a sentence of imprisonment for more than one year has been imposed; or convicted of a criminal offense for which you could have been sentenced to more than 2 years incarceration,
3. Has not been convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance,
4. Is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance unless under legitimate medical direction,
5. Has successfully completed prior to application a firearms training course approved by the state, and
6. (i) Based on an investigation, 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 others;
(ii) Has good and substantial reason to carry a handgun (this requirement has been invalidated by the *Bruen* decision).

On its face, the “dangerousness” standard set out in Section 5-304(6)(i), and its requirement that the State conduct an investigation, provide a starting point for assessing whether a wear and carry permit should be granted. However, the statute does not provide the means or standards for the State to conduct a reasonable investigation. Critically, the reality of the State’s handling of wear and carry permits in the six months after the Supreme Court issued the *Bruen* decision demonstrates the insufficiency of the current statutory framework.

Officials of the Maryland State Police Licensing Division, who are responsible for evaluating and granting wear and carry permits, testified before the House Judiciary Committee at a hearing held on January 25, 2023. They described how their process for evaluating these permit applications has changed since the *Bruen* decision, and how the number of permit requests and issuances has skyrocketed.

Prior to the *Bruen* decision, when a wear and carry permit application was submitted, the State Police would submit the individual’s name and fingerprints for a criminal history records check, to determine whether the person had been convicted of a disqualifying crime, and would request a search of the Department of Mental Health Database, which could disclose a disqualifying condition. The Police would then conduct an interview with the applicant to determine whether the reasons and evidence he or she supplied demonstrated a “good and substantial reason” to get a permit.

Since the *Bruen* decision, the Police follow the first two of their prior procedures - the criminal and mental health check, but *they have discontinued doing any interviews of applicants*. Further, nothing in the statute or their procedures requires them to seek, or individuals to provide, the wide variety of information and confirmation that would establish that the person does not have a “propensity for violence or instability” that makes it dangerous for them to carry a handgun - a determination that the statute currently requires the Police to make.

The result of these changes has been an alarming increase in largely unexamined wear and carry handgun permit holders. The issuance of *Bruen* prompted an increase in permit applications submitted from 18,517 in 2021 to 101,115 in 2022 - a 446% increase. At the same time, the rate at which permits were disqualified dropped from 10.6% to 2%. While the Supreme Court has indicated that handgun carry permits must be granted if an individual has no reason other than self-defense to apply for one, it did not hold that a person who is likely to use a handgun to intimidate or harm others must be granted a permit.

The State Police must be given the tools to make a much more robust effort to screen dangerous individuals from getting a handgun. These tools would include requiring applicants to provide more information to facilitate the process and requiring the Police to contact an investigation of each applicant.

The information from applicants should include:

1. Sufficient personal information that the Secretary can fully investigate past threats of violence, including social media accounts, aliases used online, and contact information for cohabitants and family members.
2. Endorsements by three non-relatives who have known the applicant for more than three years that they have no information that the applicant has shown a propensity for violence or other indications that they might be a danger to themselves or others.
3. A release of any relevant mental health records.

During the investigation, the State Police should be required to have an in-person interview of the applicant, and should be required to consider the following information and take the following steps:

1. Consider any domestic or other complaints of violence, protective orders, and Emergency Response Protective Orders,
2. Consider any charges of stalking, harassment, violent misdemeanors, and multiple convictions of driving under the influence in Maryland or any state where the applicant lived for the last 3 years.
3. Contact the references supplied by the applicant and contact the municipal chief of police and other appropriate officials to confirm the applicant is not a threat of violence.
4. Investigate any threats of violence made publicly or on the internet.

A thorough investigation of this sort would provide substantial protection to the public. Resources should be provided to the State Police to conduct these investigations.

Behavior While Carrying a Firearm

Section 5-314 of the current law prohibits a permit holder from wearing, carrying, or transporting a handgun while under the influence of alcohol or drugs. Given the increased prevalence of handguns in our public spaces, more limitations are needed, including the following:

1. A person carrying a handgun may not use or consume alcohol or drugs while carrying outside a holster,
2. May not carry more than two firearms,
3. May not engage in the unjustified display of a handgun,
4. Individuals carrying a handgun who are stopped by law enforcement should be required to immediately disclose that they are carrying and show their permit,
5. Individuals should not be permitted to leave a handgun outside of their immediate possession or control within a parked vehicle, unless the handgun is unloaded and contained in a closed and securely locked container, and is not visible from outside of the vehicle, or is locked unloaded in the trunk or storage area of the vehicle. Similarly, ammunition should be stored in separate locked containers. In no case should a firearm or ammunition be stored in the glovebox of the automobile.

These restrictions would reduce the risk of escalating violence and gun theft.

CIF urges this committee to produce a favorable report on SB 1, amended as we have proposed.