



2A Maryland

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Senate Bill 0159

Firearms - Maryland Voluntary Do Not Sell Firearm Registry - Establishment

UNFAVORABLE

Senate Bill 0159 is perhaps well-intentioned but nonetheless extremely naïve in concept. It serves no truly effective practical purpose because it relies on the individual making a conscious decision to place themselves on the Registry.

A 2020 report by the Governor's Commission on Suicide Prevention reports that a significant percentage of suicide decedents were experiencing issues which were not addressed.

"In 2017, 42.1% of suicide decedents had a mental health problem and 19.5% had a reported depressed mood at time of death. Despite these significant mental health concerns, only 14.7% of individuals had documentation of currently receiving treatment for mental health or substance use at time of death. Of concern is that while the number of suicide deaths in the state increased, the number of suicide decedents who had received some form of mental health treatment appears to have decreased. In 2016, 251 (42.7%) suicide decedents had documentation of receiving some form of mental health treatment in their lifetime, while in 2017 only 198 (30.9%) of suicide decedents had documentation of receiving some form of mental health treatment in their lifetime; this makes for an 11.8% decrease in the number of suicide decedents who had documentation of receiving mental health care."

Source: <https://health.maryland.gov/bha/suicideprevention/Documents/2020%20Maryland%20State%20Suicide%20Prevention%20Plan.pdf>

In 2018, the Maryland General Assembly passed HB 1302 Public Safety – “Extreme Risk Protective Orders” amidst great accolades and predictions it would make people safer from suicide and other dangerous acts. It was claimed that allowing the government to intervene so certain people could be “Red Flagged” and barred from the purchase and possession of firearms would make them and society safer.

Based on the evidence it seems clear that overall, persons who are experiencing suicidal thoughts are not likely to take the necessary action contemplated by this Bill.

Even for those who might choose to add their names to the registry to make a “political statement” it is not without its shortcomings and potential drawbacks.

There is a dichotomy between the time allowed to be placed on the registry and the time allowed for the person to be removed from the registry. The Maryland State Police have a maximum of 5 days to place a person on the registry. However, the Maryland State Police cannot remove a person from the registry sooner than 21 days after receiving the registrant’s request. There is no time limit on how long the Maryland State Police can delay the removal of the registrant from the registry. In fact, the language of this Bill contains no effective requirement that the Maryland State Police ever remove the registrant’s name. Nor is there any provision for recourse if the Maryland State Police intentionally or unintentionally take no action.

Inspection of a record is specifically authorized by the registrant, the registrant’s attorney, law enforcement and the general public. The provision in §5-905 which prohibits discrimination against persons on the registry clearly indicates the bill is intended to be a registry accessible to the general public. No specific method is described, and it is presumed that a Public Information Act request would be the appropriate method.

The Bill does contain a provision for penalties should a person or employer discriminate against a person who is or was at one time on the “do not sell registry.” The inclusion of this provision is disturbing because it indicates that persons not specifically authorized to access this list will also have access. Further, the language clearly indicates that a person’s record is never truly expunged from the registry. There is no penalty provision for the agency responsible for releasing the information.

During the House Judiciary Committee Hearing, Delegate Moon described his cross-filed bill as intended to provide persons who are having suicidal thoughts a means to prevent themselves from committing suicide. The Delegate acknowledged the bill was poorly written and involved serious privacy and fiscal issues.

Delegate Moon's rationale for this bill, fails on multiple levels:

1. It does nothing to address firearms which may already be in the person's possession.
2. It presumes that a suicidal person would choose a regulated firearm with its intensive background checks and seven day waiting period.
3. It presumes a suicidal person would not select a non-regulated firearm which is not subject to a waiting period.
4. Background checks for non-regulated firearms are done through the Federal's NICS system which does not interface with any of the State databases. The "do not sell list" is not available to the dealer.
5. If the reason for the person's inclusion is mental health related, then serious HIPAA concerns arise.
6. According to the 2020 report produced by Governor's Commission on Suicide Prevention, 59% of suicides do not involve the use of a firearm of any type.
7. It ignores the fact that in 34% of suicides the second leading methodology is suffocation.
8. It assumes the person will not resort to suicide by other available means.

When all factors are taken into consideration, the potential efficacy of SB 0159 and the cross-file HB 162 is minimal. We strongly suggest the Committee members recognize the serious limitations of these Bills and the false sense of security their passage may impart.

We cannot support either bill. We urge the Committee to return an Unfavorable Report.

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