

Maryland General Assembly
House Judiciary Committee, 2023 Session
Testimony in Opposition (unfavorable) to SB 0001 “Gun Safety Act of 2023”
Written testimony submitted on 27 March, 2023

To the Chair, members and staff of the 2023 House Judiciary Committee,

Greetings and thank you for taking time to read my testimony **in opposition** to SB 0001, “Gun Safety Act of 2023”. I have an unfavorable opinion about this act, and I am opposed to it in all forms. I stand in opposition to this proposed legislation for a number of reasons.

I am a Maryland and Montgomery County resident. My personal experiences compel me to speak out against the “Gun Safety Act of 2023.” I request that you vote UNFAVORABLY on Senate Bill 1 (Gun Safety Act of 2023) in any Senate Judicial Proceedings Committee votes. I ask you to vote unfavorably on SB-1 because it is illegal as written. Carrying firearms outside the home for self-defense is a U.S. Constitutional right under the Bill of Rights as well as under the Maryland Declaration of Rights.

SB-0001 violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The bill is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs to the bill’s proposed regulations. And the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights. It violates the human and Constitutional right to self-defense outside the home.

Our civil rights, including the right to keep and bear arms in public, are integral and important to the social fabric of Maryland, and the US. When we weaken one right, we weaken all of them. Plus, this proposed legislation will do far more harm than good, and it will expose victims of violent crime, especially women, to murders, rapes, shootings and other violent acts. The Act will not solve the problems which it intends to solve, it will alienate a substantial amount of the population from itself and its government, and it will waste a lot of the State’s resources when the State will be compelled to defend it in public. Please do not let this Act out of Committee.

Here are many specific and generic reasons why I think the “Gun Safety Act of 2023” should not be advanced out of the Senate Judicial Proceedings Committee due to its illegality and the adverse impact this bill will have on the People of Maryland should it be made law:

Section 4–111 (B)

THIS SECTION DOES NOT APPLY TO

(1) A LAW ENFORCEMENT OFFICIAL OF THE UNITED STATES, THE STATE, OR A LOCAL LAW ENFORCEMENT AGENCY OF THE STATE;

(2) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES OR THE NATIONAL GUARD ON DUTY OR TRAVELING TO OR FROM DUTY;

(3) A MEMBER OF AN ROTC PROGRAM WHILE PARTICIPATING IN AN ACTIVITY FOR AN ROTC PROGRAM;

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(4) A LAW ENFORCEMENT OFFICIAL OF ANOTHER STATE OR SUBDIVISION OF ANOTHER STATE TEMPORARILY IN THIS STATE ON OFFICIAL BUSINESS;

(5) A CORRECTIONAL OFFICER OR WARDEN OF A CORRECTIONAL FACILITY IN THE STATE;

(6) A SHERIFF OR FULL-TIME ASSISTANT OR DEPUTY SHERIFF OF THE STATE;

(7) SUBJECT TO SUBSECTION (I) OF THIS SECTION, AN OFF-DUTY LAW ENFORCEMENT OFFICIAL OR A PERSON WHO HAS RETIRED AS A LAW ENFORCEMENT OFFICIAL IN GOOD STANDING FROM A LAW ENFORCEMENT AGENCY OF THE UNITED STATES, THE STATE, OR A LOCAL UNIT IN THE STATE WHO POSSESSES A FIREARM, IF:

(I) 1. THE OFFICIAL OR PERSON IS DISPLAYING THE OFFICIAL’S OR PERSON’S BADGE OR CREDENTIAL;

2. THE FIREARM CARRIED OR POSSESSED BY THE OFFICIAL OR PERSON IS CONCEALED FROM VIEW UNDER OR WITHIN AN ARTICLE OF THE OFFICIAL’S OR PERSON’S CLOTHING; AND

3. THE OFFICIAL OR PERSON IS AUTHORIZED TO CARRY A HANDGUN UNDER THE LAWS OF THE STATE OR THE UNITED STATES;

Comment: The above language creates a bifurcated system of rights entitlement that is illegal under the 14th Amendment of the U.S. Bill of Rights, which guarantees equal protection under the law. All people are entitled to the right to self-defense outside the home in case of confrontation anywhere and at any time, not just retired law enforcement. The above language is clearly and patently discriminatory. It “rewards” one class of people at the expense of another. SB-0001 should be voted down for this discrimination alone.

(C) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN AN AREA FOR CHILDREN OR VULNERABLE INDIVIDUALS.

Comment: The above language is illegal. There is no Constitutional justification for this part of the bill. It violates the right to self-defense outside the home in case of confrontation at any place and at any time. This text violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The language is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that identify “areas for children” or “vulnerable individuals” that would prevent a law abiding person from carrying a firearm for self-defense in such a location. This section of the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore this section of the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights. It violates the human and Constitutional right to self-defense outside the home, including in “areas for children” or “vulnerable individuals”.

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(D) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN A GOVERNMENT OR PUBLIC INFRASTRUCTURE AREA.

Comment: The above language is illegal. There is no Constitutional justification for this part of the bill. It violates the right to self-defense outside the home in case of confrontation at any place and at any time, including in “public infrastructure areas”. This text violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The language is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that prevent the carrying of firearms for self-defense outside the home in “government areas” or “public infrastructure areas”. This section of the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore this section of the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights and established law. It violates the human and Constitutional right to self-defense outside the home, including in “government areas” and “public infrastructure areas”.

(E) (2) A PERSON MAY NOT WEAR, CARRY, OR TRANSPORT A FIREARM IN A SPECIAL PURPOSE AREA.

Comment: The above language is illegal. There is no Constitutional justification for this part of the bill. It violates the right to self-defense outside the home in case of confrontation at any place and at any time, including in “special purpose areas”. This text violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The language is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that prevent the carrying of firearms for self-defense outside the home in “special purpose areas”, which means locations that sell or dispense alcohol for on-site consumption, including restaurants, hotels, taverns and any number of similar places. The nation and State of Maryland have a long tradition that supports the right to bear arms for self-defense in case of confrontation, including in these locations. This section of the bill flies in the face of that tradition. This section of the bill also refers to stadia, musea, locations for organized sporting activities, live theater performances, fairs and carnivals, racetracks, and even any place that is charging a cost for admission to see a live music performance. It also prevents the carry of firearms in any public event that requires a permit, which would include farmers markets, block parties and similar events.

This section of the bill outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that would prevent the carry of firearms for self-defense outside the home in these identified “special purpose areas”. This section of the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore this section of the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights and established law. It

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violates the human and Constitutional right to self-defense outside the home, including in “special purpose areas”.

6-411

(C) A PERSON WEARING, CARRYING, OR TRANSPORTING A FIREARM MAY NOT:

(3) ENTER OR TRESPASS IN THE DWELLING OF ANOTHER UNLESS THE OTHER HAS GIVEN EXPRESS PERMISSION, EITHER TO THE PERSON OR TO THE PUBLIC GENERALLY, TO WEAR, CARRY, OR TRANSPORT A FIREARM INSIDE THE DWELLING.

Comment: The above language is illegal. There is no Constitutional justification for this part of the bill. It violates the right to self-defense outside the home in case of confrontation at any place and at any time, including in private dwellings without the notification of the dwelling owner or occupant. This text violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The language is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that prevent the carrying of firearms for self-defense outside the home in dwellings without the express notification of the owner or occupant. There are long-standing traditions and laws that support the full spectrum of civil rights, including speech, faith and peaceable assembly, as well as other rights. Those rights are for the People’s rights at all times and in all locations. Dwelling owners or occupants may choose to limit those rights in accordance with the Constitution and applicable laws and regulations, but NEVER is it assumed that ANY civil right guaranteed to the People can be restricted by default, and require the People to request that those rights be enfranchised upon entry to a private dwelling. This is not how it works for the right to speech, religion, search and seizure, or any others, and it’s not how it works for the right to self-defense outside the home.

The nation and State of Maryland have a long tradition that supports the right to bear arms for self-defense in case of confrontation, including in private dwellings unless the owner or occupant has expressly notified anyone that carrying weapons is not allowed. This section of the bill flies in the face of that tradition.

5-307

(C) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.

Comment: The above language is illegal. There is no Constitutional justification for this part of the bill. It violates the right to self-defense outside the home in case of confrontation at any place and at any time because the bill enables a State official to limit geographic areas, circumstances, times of the day, week,

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month or year in which a permit is effective, without discretion or limitations. This text violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The language is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that would empower a state official to prevent the carrying of firearms for self-defense outside the home geographic areas, circumstances, times of the day, week, month or year, or the general efficacy or effectiveness of a permit. The nation and State of Maryland have a long tradition that supports the right to bear arms for self-defense in case of confrontation, including at all times and in all locations. This part of the regulation violates this tradition.

This section of the bill outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that would empower a state official to limit the right to self-defense outside the home in such comprehensive ways. This language renders the right to self-defense meaningless. This section of the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore this section of the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights and established law. It violates the human and Constitutional right to self-defense outside the home, including in the carrying of firearms for self-defense outside the home geographic areas, circumstances, times of the day, week, month or year, or the general efficacy or effectiveness of a permit.

5-309

(a) Except as provided in subsection (d) of this section, a permit expires on the last day of the holder’s birth month following 2 years after the date the permit is issued.

(b) Subject to subsection (c) of this section, a permit may be renewed for successive periods of 3 years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee stated in this subtitle.

Comment: The above language is illegal because it is racist and discriminatory against those persons that must incur costs for a permit for a Constitutional right to self-defense. It penalizes the poor that most likely need to exercise the right to self-defense because they will need to come up with hundreds of dollars for a license that will initially expire in less than three years, and then expire every three years after that. These costs are born to meet the State’s proposed requirements to obtain a permit for a Constitutional right. Low-income persons, most of which are minorities, women and people of color, will be required to pay for the right to self-defense. In fact, ALL fees should be removed from this permit scheme, and the duration of the permit should be extended to ten years instead of reduced to two years. It is reprehensible that the permitting scheme be considered for anything less than five years. It’s exploitive of the poor, and blatantly discriminatory. It’s red-lining practices but in place of banks it’s the State of Maryland that will be doing the red-lining.

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This section of the bill outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that would require any person to pay a fee to the State to exercise the right to self-defense outside the home. This language renders the right to self-defense meaningless for low-income people, especially minorities, women and people of color. This section of the bill matches the historical tradition of the early 20th century, sadly the Jim Crow era, instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore this section of the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights and established law. It violates the human and Constitutional right to self-defense outside the home, including the rationing of the right based on economic privilege.

5-306

(6) IS NOT A RESPONDENT AGAINST WHOM:

(I) A CURRENT NON EX PARTE CIVIL PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 4–506 OF THE FAMILY LAW ARTICLE;

(II) A CURRENT EXTREME RISK PROTECTIVE ORDER HAS BEEN ENTERED UNDER § 5–601 OF THIS TITLE;
OR

Comment: This section of the bill outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs that would remove a person’s civil rights without a trial and ensuing judgement that would prevent a person from exercising the right to self-defense outside the home. This language renders the right to self-defense meaningless for many people going through divorce proceedings, especially victims of domestic abuse, who sadly are most often women. This section of the bill exposes victims of domestic abuse to heightened risk because they will be unable to exercise the right to self-defense outside the home anywhere and anytime, which is where and when abusers can strike. This section of the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore this section of the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights and established law. It violates the human and Constitutional right to self-defense outside the home, including the removal of the right based on hearsay and one-person’s ruling without a facts and testimony based trial.

Maryland Declaration of Rights, Article 2; & US Constitution and Bill of Rights, 2nd Amendment

Additionally and generally speaking, the “Handgun Safety Act” *prima facie* violates the [Maryland Constitution Declaration of Rights](#), Article 2; and the 2nd Amendment to the [United States Constitution Bill of Rights](#). Article 2 of the Maryland Declaration of Rights *unambiguously* states “**The Constitution of the United States, and the Laws made, or which shall be made, in pursuance thereof, and all Treaties made, or which shall be made, under the authority of the United States, are, and shall be the Supreme**

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Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby; anything in the Constitution or Law of this State to the contrary notwithstanding.” The Maryland Declaration of Rights does not specifically cite a right to bear arms, **but the US Bill of Rights does**, and it does so explicitly in the 2nd Amendment, which states “*A well regulated Militia, being necessary to the security of a free State, **the right of the people to keep and bear Arms, shall not be infringed.***” The members of this Committee shall no doubt read ample commentary about the meaning of the US Bill of Rights 2nd Amendment, and how this should be incorporated into the legislative process. For purposes of this testimony, **the Committee members must note** that according to the US Supreme Court’s many rulings and orders over the last several decades, the “...right of the people to keep and bear arms, shall not be infringed” must be interpreted and understood via the following principles:

1. **The right to self-defense pre-dates the founding of the United States (and Maryland.)** This right is a pre-existing right, it endures until today.
2. **The right to self-defense is not limited to hearth and home. The right extends to self-defense outside the home.**
3. The 2nd Amendment should be understood through **the clear meaning of the text**, including the prefatory and operative clauses of the 2nd Amendment, i.e.
 - a. Prefatory clause: “A well-regulated militia, being necessary to the security of a free state...” means that the existence of the Free State of Maryland necessitates that the people are entitled and able to keep **AND BEAR** arms in order that they may support and defend the Free State should it be required, **and**
 - b. Operative clause: “...the right of the people to keep and bear arms shall not be infringed.” means that where the state is concerned, the people have had and continue to have a pre-existing right to bear arms for self-defense; and the fact that this right exists enables the Free State of Maryland to be supported and defended by the people who are able to bear arms in support of the Free State. It also means that this right **cannot be infringed** because in so doing the Free State of Maryland is imperiled.
4. To determine if conduct around the keeping and bearing of arms is protected by the Maryland Declaration of Rights and/or the 2nd Amendment of the US Bill of Rights, **legislators AND justices** must first assess if the 2nd Amendment is implicated by the conduct in question.
5. If the conduct in question implicates the 2nd Amendment of the US Bill of Rights, the legislators must then assess if the conduct is legal. If it is legal and protected by the 2nd Amendment to the US Constitution, the inquiry stops. No law should be made that would violate the conduct in question, and should the law be in place, it should be struck.
6. If the State wishes to craft regulations around the 2nd Amendment right to bear arms outside the home for self-defense, any legislation must be consistent with the nation’s historical tradition of firearm ownership. The historical period to which the State must refer is the founding era.

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In Sum:

- The US Constitution and Bill of Rights, including the 2nd Amendment, are the “...Supreme Law of the State; and the Judges of this State, and all the People of this State, are, and shall be bound thereby...”
- The right to self-defense is a pre-existing right that is protected under the 2nd Amendment of the US Bill of Rights.
- The right to self-defense extends beyond the home.
- The viability of the Free State of Maryland necessitates that the people are entitled to keep and bear arms.
- The carrying of firearms for self-defense outside the home for self-defense is a protected right.
- Maryland Legislators **MUST** consider if any proposed legislation regarding the right to carry a gun outside the home for self-defense implicates the 2nd Amendment right to keep and bear arms outside the home.
- The legislature must do this analysis **PRIOR** to adopting any legislation regarding these rights.
- Any proposed legislation **MUST** be consistent with the nation’s historical tradition of firearm ownership.

In the case of the “Gun Safety Act”, **it is 100% certain that the Act will implicate the 2nd amendment right to lawfully carry firearms outside the home for self-defense throughout the state of Maryland.** The legislature must then consider if the Act, which implicates the 2nd Amendment because it severely restricts the carrying of firearms for self-defense, is legal under the US Bill of Rights. It must refer to the nation’s historical tradition of firearm ownership and identify historical analogs that would enable the State to claim the Act is permissible. However, there are no such analogs. Therefore it is certain that the Act’s prevention of carrying guns for self-defense in the broad list of locations and times will be illegal under the US Constitution, and as such, the Maryland Declaration of Rights. The Act is illegal and it should not advance out of this Committee.

Maryland Declaration of Rights, Article 44

Additionally, the “Gun Safety Act” violates the Maryland Declaration of Rights, Article 44, which declares ***“That the provisions of the Constitution of the United States, and of this State, apply, as well in time of war, as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good Government, and tends to anarchy and despotism.”***

The Act violates this Article of the Maryland Declaration of rights because the rights of the people under the 2nd Amendment of the US Constitution, and the Maryland Declaration of rights, are violated under a “plea of necessity”. The “plea of necessity” flies under the flag of “gun violence”, but in truth, the vast majority of violent acts involving firearms are executed by criminals, not the law abiding. And, while we commonly hear of the “scourge of gun violence and its tens of thousands of deaths”, we must also think, speak and legislate frankly about the statistics that color these kinds of statements. The sad reality is that the substantial majority of gun-related deaths are attributable to suicides. The law-abiding people

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of Maryland are justly entitled to carry firearms outside their homes for self-defense. The criminals that are engaged in assaults and murders with firearms will continue to do so. The only thing the “Gun Safety Act” will do is prevent law abiding people from protecting themselves and their families from violent criminals. The “Gun Safety Act” will have no impact on suicide rates in Maryland.

The “Gun Safety Act” violates the Maryland Declaration of Rights because it subverts the right to self-defense under a “plea of necessity”. The Act is illegal because it flies in the face of prohibitions against suspending constitutional provisions, rights and laws, including self-defense. Not only is the Act illegal, it subverts the Good Government of Maryland because should the Gun Safety Act be adopted, the Government and State will “...tend towards anarchy and despotism.”

Further, the Supreme Court has said that “...interest balancing...is not deference that the Constitution demands...” when considering legislation and regulations regarding the 2nd Amendment. In fact, the Court has said the 2nd Amendment “is the very product of an interest balancing by the people.”

Maryland’s Declaration of Rights expressly prevents departure from the Declaration and the Constitution “under the plea of necessity”, which is the same thing as “interest balancing.” It is a violation of the Declaration and the Constitution for the Legislature to do this.

The Maryland Senate MUST heed the wise words and sentiments of the Article 44 of the Maryland Declaration of Rights. Not only does the “Gun Safety Act” EXPLICITLY violate this Article, it also imperils the Free State because the Act’s passing may lead to anarchy and despotism.

Maryland Declaration of Rights, Article 16

In addition, SB 001 “Gun Safety Act” also violates Article 16 of the Maryland Declaration of Rights, which states “That **sanguinary Laws ought to be avoided** as far as it is consistent with the safety of the State; **and no Law to inflict cruel and unusual pains and penalties ought to be made in any case, or at any time, hereafter.**”

SB 0001 violates this clause because the “Gun Safety Act” obliterates the right of self-defense, thereby exposing law abiding residents of Maryland to heightened risk of violent injury, death and other sanguinary outcomes because the people will not have the right of self-defense outside their homes should this legislation be enacted. As Maryland residents, we are all exposed to an environment of increasing violent crime, and reduced police presence, capacities, and capabilities. Our shared communal environment, more so in some locations than others, exposes residents and visitors to extremely high risk of sanguinary acts of violence. We must not leave to chance and create more victims of violent criminals. The “Gun Safety Act” does this very thing. It prevents law abiding residents from protecting themselves from bloody criminal violence and death, and this violates the 16th Article of the Maryland Declaration of Rights. This law WILL result in Maryland residents being victims of bloody (sanguinary) criminal acts and conduct, and as such it violates the Declaration of Rights.

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Maryland Declaration of Rights, Article 19

Further, the “Gun Safety Act” also violates the 19th Article of the Maryland Declaration of Rights, which states *“That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.”*

The first order of legal remedy is the prevention of injury to the innocent through the crafting of just laws. Legal remedy is inclusive of more than adjudication. It also includes a principle that an innocent should not be injured or left defenseless to the whims of criminality.

The “Gun Safety Act” deprives any law-abiding person in Maryland the right to protection and self-defense under color of law. In fact, the people of Maryland are entitled to just and right laws and remedies “...freely without sale, fully without denial and speedily without delay.” Just and righteous laws enfranchise and enable the right to self-defense; while the proposed “Gun Safety Act” in fact obliterates the rights to self-defense for people in Maryland. It leaves Maryland residents exposed to criminal violent acts and injuries with no just, right, free, full and most importantly, **immediate** protection under the law, especially during the onset and occurrence of violent criminal assault, threat and acts, including murders, rapes and assaults. Per the Declaration of Rights, Maryland residents are entitled free, full and speedy protections from personal injury, including criminal conduct, under our just and right Maryland law. The Gun Safety Act deprives the people of these rights to which they are entitled. It is an affront to Maryland’s people and her declaration of rights for the Legislature to adopt this legislation which will leave law abiding Maryland residents naked, helpless and in the wind; and to only leave the people or their heirs recourse to claim justice after they have been violently victimized, injured or killed by violent criminal conduct.

Maryland Declaration of Rights, Article 24

Article 24 of the Maryland Declaration of Rights reads *“That no man ought to be taken or imprisoned or disseized of his **freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land** (amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978).*

This Article clearly demonstrates another reason why the “Gun Safety Act” should not be adopted. Should anyone violate any portion of the Act, that person will be subject seizure of liberties through criminal penalties, including loss of the right to keep and bear arms under the Maryland Declaration of Rights and the US Bill of Rights. Further, it is likely persons that rightly and justly carry firearms for self-defense outside the home will face state-sponsored destruction under the color of an unjust “Law of the land.” Such persons will be subject to arrest, detention, court proceedings, imprisonment, fines and other punishments deemed appropriate by the State.

As noted above, the Gun Safety Act prima facia violates the US Constitution and Bill of Rights, as well as the Maryland Declaration of Lights. It is an unconstitutional law, and should it be enacted it will become the “Law of the land” but unjustly so. Those subject to this law will be at risk of loss of freehold, liberties, privileges, destruction, and deprivation. They will also be considered outlaws for the simple of

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acts of asserting the right to self-defense. The “Gun Safety Act” cannot stand under Article 24 of the Maryland Declaration of Rights.

Maryland Declaration of Rights, Article 46

Article 46 of the Maryland Declaration of Rights states “*Equality of rights under the law shall not be abridged or denied because of sex*” (added by Chapter 366, Acts of 1972, ratified Nov. 7, 1972. Amended by Chapter 681, Acts of 1977, ratified Nov. 7, 1978). The Gun Safety Act exposes women to the depredations of violent criminals, most of whom are larger, stronger, faster and more violent men. When women are victims of criminal violence, in the vast majority of cases the women are already at a physical disadvantage. Not only are women disadvantaged, but they also exclusively suffer the consequences of rape and its horrific aftermath. The “Gun Safety Act” nearly explicitly punishes women because women are most vulnerable outside the home. The “Gun Safety Act” makes an all-too-frequently predatorial and dangerous world significantly more dangerous to women, whom with the passage of this legislation will be largely defenseless against violent rapists, murderers and felons.

Victims of domestic violence represent the third highest group of people that die from gunshot wounds, behind suicides (#1) and felony related murders (gang violence, robberies, etc. #2).

SB-1 is in direct conflict with the State of Maryland's extensive safety **recommendations for victims of domestic violence**. SB-1 will expose domestic violence victims to injury and death. The State recognizes the risks born by victims of domestic violence. The government of Maryland knows that domestic violence victims can be attacked anytime and anywhere, so much so that the State recommends domestic violence victims arm themselves with non-lethal weapons for self-defense. The proof of this is noted at the State recommended resources for domestic violence victims, as follows:

Recommended Safety Tips (This site is used by the State of Maryland to provide information to domestic violence victims.) Via this site, the State recommends that victims consider arming themselves with "pepper spray or mace" for self-defense. This recommendation ***directly recognizes that armed self-defense is a necessity for domestic violence victims; and that victims should prepare for confrontation by arming themselves.*** Anyone in the House or in the House Judiciary Committee that votes "yes" for SB-1 will deprive domestic violence victims of the State's own recognized right to self-defense in case of confrontation anywhere and anytime outside the home. Here's what the State says about this at its own recommended website:

Ways to Make Travel Safe

- Always park in well-lit area/use busy bus stops.
- Always lock your car right away (when you leave or enter it).
- Ask someone to walk you to your car/bus stop.
- Always check the back seat before you enter your car.
- Never wait alone at a bus stop.
- Consider carrying pepper spray or mace with you.
- Use different streets to drive home.
- Look around at every stop light and before you get out of your car.
- If you see that your abuser is following you or waiting for you, go away and get to a phone and call 911.

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Safety Planning - This State reference link takes one to a virtual reading nightmare. In sum, this "domestic violence victim planning page" provides a number of recommendations for victims to follow in order to escape violence, and to try to prevent and defend against it. The page demonstrates in several locations that **the State knows domestic violence victims live in fear and terror AT ALL TIMES AND IN ALL LOCATIONS; and that domestic violence victims must be prepared for confrontation at all times and in all locations.** The State also recognizes that protective orders are meaningless for many abusers. It also recognizes that in many cases the police will not help the victim.

STEP 4: Safety with a Protective Order

Many abusers obey protective orders, but one can never be sure which abusers will obey, and which will not. I recognize that I may need to ask the police and the court to enforce my protective order.

The following are some steps that I can take to help the enforcement of the protective order:

- I will always carry a copy of the Protective Order with me. If I change purses, the Protective Order is the first thing that should go into the new purse.
- I will also keep a copy of my Protective Order _____ (location) next to my telephone in case I need to call the police. I will give my Protective Order to the police department in the communities where I usually visit family or friends, and in the community where I live.
- I will inform my employer, my minister, my closest friend, _____, and _____ that I have a Protective Order in effect.
- If my partner destroys my Protective Order, I can get another copy by going to the District or Circuit Court Civil Clerk's office, depending on which court issued my order.
- If my partner violates the Protective Order, I can call the police and report a violation, contact my attorney, call my advocate, and/or advise the court of the violation.
- If the police do not help, I can contact my advocate or attorney, and he or she will assist me with getting help.
- I can also file a criminal complaint with the District Court commissioner in the jurisdiction where the violation occurred. I can charge my battering partner with a violation of the Protective Order, as well as all the crimes that he/she commits in violating the order. I can call a domestic violence advocate to help me with this.

The webpage specifically cites cases and scenarios where victims may require protection and self-defense, including:

- At work (including restaurants, health facilities, stadiums, sporting events, etc., wherever a victim may be employed, and which would become illegal for a domestic violence victim to carry her firearm.)
- Traveling to and from work,
- While driving,
- While travelling aboard public transportation,
- While grocery shopping, visiting malls and conducting business (at any hour/time), and
- When banking (at any hour/time).

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STEP 5: Safety on the job and in public

You must decide if and when you will tell others about the abusive partner, and that you may be at continued risk. Friends, family, and co-workers can help protect you. You should consider carefully which persons you trust to help secure your safety.

I might do any (or all) of the following:

- I can inform my boss, the security supervisor, and _____ at work of my situation.
- I can ask _____ to help screen my telephone calls at work.
- When leaving work, I can _____
- When driving home, if problems occur, I can _____

- If I use public transportation, I can _____
- I will go to different grocery stores and shopping malls to conduct my business, and shop at hours different from those I used when residing with my battering partner.
- I can use a different bank and take care of my banking at hours different from those I used when residing with my battering partner.
- I can also _____

What does this mean? SB-1 exposes victims of domestic violence to harm when they are traveling to, adjacent to pre-schools or pre-kindergarten facilities, private primary or secondary schools, youth camps, health care facilities, runaway youth shelters, government infrastructure areas, public or private higher education institutions, polling places, electric plants or electric storage facilities, organized sporting or athletic activities, locations licensed to sell or dispense alcohol for on-site consumption including restaurants, hotels, street vendors or any other similar place or business, stadia, museums, organized sporting event locations, live theater, musical concerts or venues, fairs and carnivals, racetracks, video lottery facilities or within 100 yards of a place where the public is gathering under a permit or demonstration.

SB-1 will continue to expose domestic violence victims to constant threat, anywhere and anytime. The State recognizes that these victims, the vast majority of whom are women, must be prepared for confrontation at any time, and the State also recommends that domestic victims arm themselves (but only with pepper spray?) and be prepared for violence from a group of batterers that are responsible for the second highest number of murders in the country. And yet SB-1 will prevent these women from defending themselves.

This bill is an insult to the many thousands of women in Maryland living in fear for their life from violent and abusive domestic partners and other batterers. At its core, SB-1 is illegal, unethical and immoral.

ON THIS BASIS ALONE THE “GUN SAFETY ACT OF 2023” SHOULD BE STOPPED IN COMMITTEE. For too long the daughters, mothers, wives, sisters, cousins and friends of Maryland have been subject to violent, criminal acts, rapes and murders without sufficient means for them to defend themselves. This legislation will further the victimization of women and I IMPLORE you to stop this legislation from becoming law at your earliest opportunity.

Maryland Declaration of Rights, Article 6

The last explicit reference to the Free State’s Declaration of Rights can be found in Article 6 of that August instrument. The Article reads *“That all persons invested with the Legislative or Executive*

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powers of Government are the Trustees of the Public, and, as such, accountable for their conduct: Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered, and all other means of redress are ineffectual, the People may, and of right ought, to reform the old, or establish a new Government; the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Our forebearers were wise to include these words in their legacy. It is patently obvious from the language of SB0001, the “Gun Safety Act”, is in clear violation of the Maryland Declaration of Rights, as well as the US Constitution Bill of Rights. The Act contravenes and subverts the 2nd and other amendments to the US Bill of Rights. It equally and dramatically contravenes and subverts the Maryland Declaration of Rights, in particular Articles 2, 6, 16, 19, 24, 44 and 46. Due to the Act’s subversion of the Maryland Declaration of Rights and the US Bill of Rights, the Act creates several problems for the legislature.

US Supreme Court Decision No. 20-843

NEW YORK STATE RIFLE AND PISTOL ASSOCIATION V BRUEN, SUPERINTENDENT OF NEW YORK STATE POLICE

The Committee will doubtless receive ample information about this and other Supreme Court cases. I am not an attorney or expert in Supreme Court jurisprudence. However, I must also testify that the “Gun Safety Act” violates this and other decisions in more than a few ways.

1. The Act is being considered due to an “interest balancing” by the State. As mentioned, this violates Article 44 of the Maryland Declaration of Rights, which states *“That the provisions of the Constitution of the United States, and of this State, apply, as well in time of war, as in time of peace; and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good Government, and tends to anarchy and despotism.”* The Bruen decision echoes this when it quotes the Supreme Court’s Heller decision saying, *“...interest balancing...is not the deference that the Constitution demands here. The Second Amendment is the very product of an interest balancing by the people,”* and it *“surely elevates above all other interests the right of law-abiding, responsible citizens to use arms for self-defense.”* The Maryland General Assembly will break the law in passing the “Gun Safety Act” because it is a product of interest balancing.
2. The Bruen decision also relies upon the Heller decision when it says *“...the Second Amendment guarantees an “individual right to possess and carry weapons in case of confrontation.”* The Act violates the right to carry weapons in case of confrontation outside the home because the Act will make it illegal to carry a firearm for self-defense in nearly all the state. The right to self-defense will be gutted by the Act.
3. It again quotes Heller in saying that *“Constitutional rights are enshrined with the scope they were understood to have when the people adopted them.”* This requires that any law which implicates the 2nd amendment must have an analog that matches the understanding of the right

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to self-defense as it was understood during the founding of the US. There are no such regulatory analogs to the “Gun Safety Act” in Maryland’s history.

4. The Court also said in Bruen, quoting another case (McDonald), that “The constitutional right to bear arms in public for self-defense is not “a second class right, subject to an entirely different body of rules than other Bill of Rights guarantees.” The “Gun Safety Act” treats the right to bear arms in public as a second class right. No other constitutional rights suffer the burdens that the State of Maryland is considering applying here.
5. When discussing “sensitive places”, the Court said in Bruen *“But expanding the category of “sensitive places” simply to all places of public congregation that are not isolated from law enforcement defines the category of “sensitive places” far too broadly. Respondents (i.e. State of New York) argument would in effect exempt cities from the Second Amendment and would eviscerate the general right to publicly carry arms for self-defense that we discuss in detail below.”* Clearly **the Gun Safety Act does exactly what the Supreme Court said the government unambiguously must not do!** The Gun Safety Act obliterates the right to carry a gun for self-defense in public by eliminating the vast majority of places a gun could be carried because the Act would make it illegal to carry a gun for self-defense in case of confrontation outside the home in thousands of locations in the State, in some cases within 100 feet of restricted locations.
6. The Bruen decision also states, *“Throughout modern Anglo-American history, the right to keep and bear arms in public has traditionally been subject to well-defined restrictions governing the intent for which one could carry arms, the manner of carry, or the exceptional circumstances under which one could not carry arms.”* The “Gun Safety Act” obliterates the right to carry a gun for self-defense because the list of restricted places are so numerous as to obliterate the right. In fact, the Act would eviscerate the right to carry because it would make it a practical impossibility to carry a gun for self-defense at all. This far exceeds the traditional understanding of the right as required by the Bruen, McDonald and Heller decisions.
7. The Bruen decision also notes that *“...the history reveals a consensus that States could not ban public carry altogether.”* The “Gun Safety Act” would for all practical purposes ban public carry altogether for many people. This violates the law because under Bruen there must be a historical analog to current legislation regarding the carrying of weapons in public for self-defense. Most of the provisions of this bill do not have regulatory analogs from the era of the country’s founding, or traditions from that era.
8. The Bruen decision clearly requires the Maryland General Assembly to identify an American tradition justifying the State’s prohibition of carrying a weapon for self-defense in the many areas listed in the bill’s language, as well as restrictions on the carrying of weapons for self-defense on real property of another unless the other has given express permission. There is no such tradition offered by the State. Because the State has no such historical analog to support the “Gun Safety Act”, it is illegal and it should not be passed.
9. A Bruen decision concurrence also says that *“...the Second Amendment protects the right of law-abiding people to carry a gun outside the home for self-defense...”;* and that any law *“...which makes that virtually impossible...is unconstitutional.”* The “Gun Safety Act” makes it

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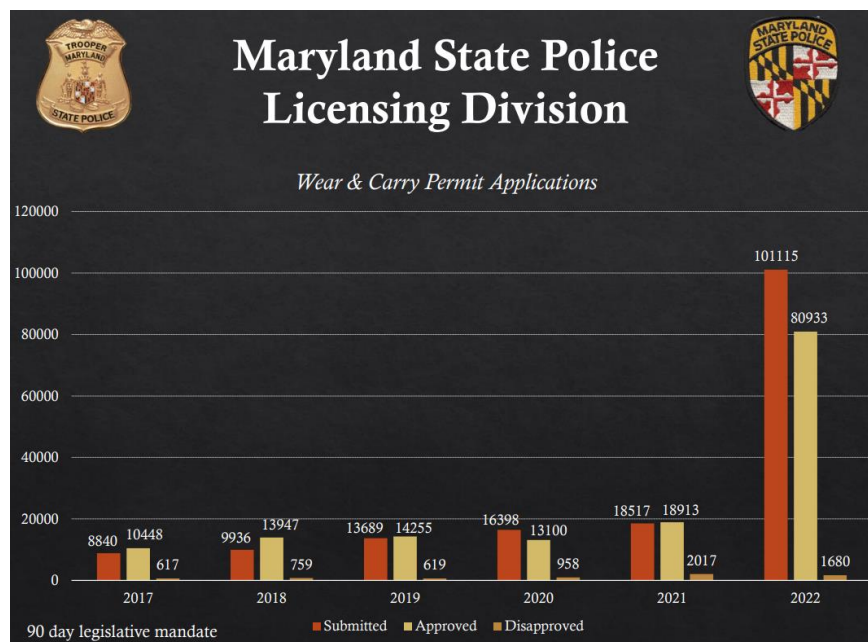
virtually impossible for a law-abiding person to carry a gun outside the home for self-defense. It is unconstitutional on its face.

Clear Public Interest

Since the publication of the Supreme Court’s Bruen decision in June 2022, the State of Maryland has changed from a “may issue” wear and carry permit state to a “shall issue” state. This means that unless there is good cause for the denial of a wear and carry permit, the State shall issue such permits in order to be in compliance with the Maryland Declaration of Rights and the US Constitution.

As a result of this recent change, one can already see that there is a clear interest by the public to lawfully wear and carry guns for self-defense outside the home. In fact, per [the latest information from the Maryland State Police](#), there has been a more than 500% increase number of applicants from 2021 to 2022, and this data only accounts for the last five months of 2022. It can reasonably be assumed that the number of applicants for wear and carry permits in Maryland will have increased ten times by the middle or end of 2023. It would not be unreasonable to assume that while in 2021 there were approximately 18,000 applicants and permit holders, by 2025 there could be 400-500,000. This aligns with rates found in other states that “shall issue” permits to lawfully carry firearms self-defense outside the home.

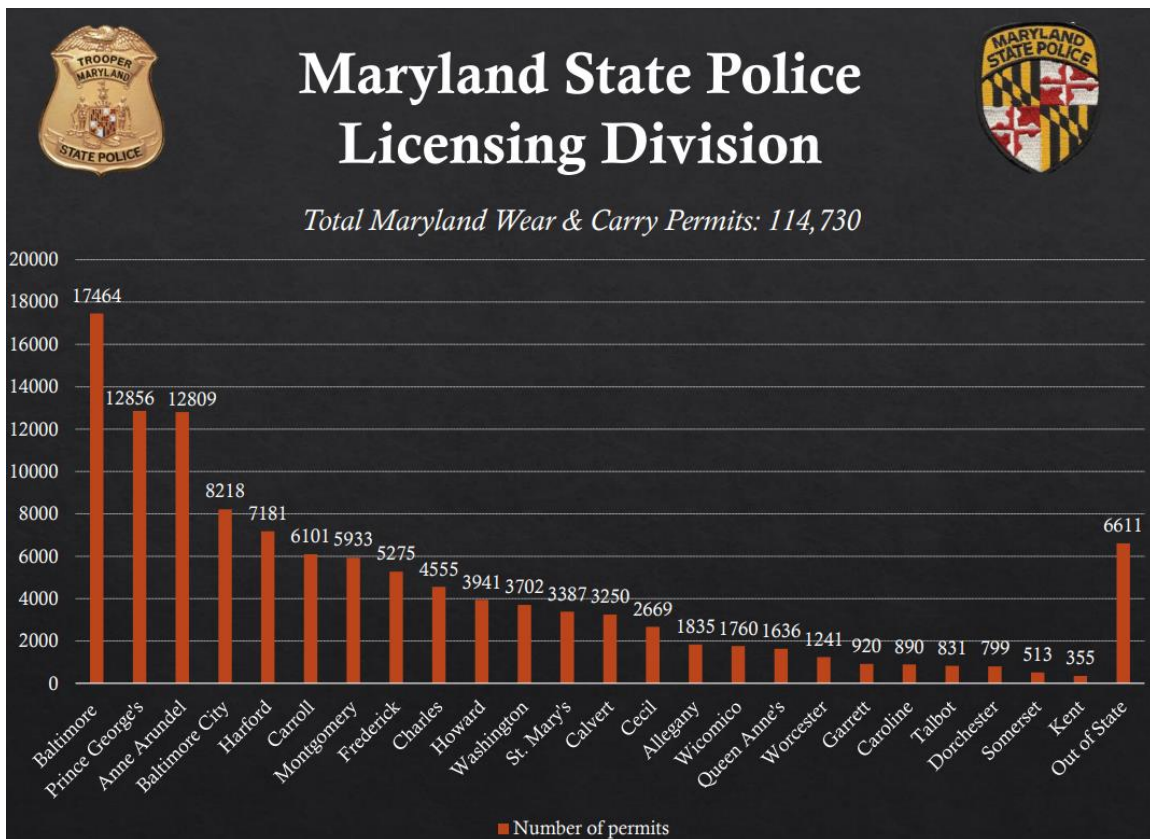
While the Maryland State government formerly said that the number of wear and carry permit applicants and holders was low due to “low public interest”, in fact, we now know that there is significant public interest in exercising the right to lawfully bear arms outside the home for the purpose of self-defense. The Act flies in the face of substantial public interest in exercising the Constitutionally protected right of armed self-defense outside the home.



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Geographic Impact

In addition to a substantial Maryland public interest in the right to lawfully bear arms outside the home for self-defense, the latest Maryland State Police data demonstrates that **the most interest comes from geographies where law abiding people are most victimized by violent crime**. From the MSP data found below it is clear that the people most impacted by violent crime are the most interested in exercising their right for lawful carry outside the home for self-defense. The “Gun Safety Act” would deprive people living in these geographies of their right to lawfully carry weapons for self-defense outside their homes. If the “Gun Safety Act” is made law, the subsequent geographic data will be reminiscent of home lending “red-lining” which we all worked to defeat in years past. This Committee must fully understand that the right to bear arms outside the home for self-defense is a right that is needed and exercised across the racial, economic and political spectrum. That said, the people most impacted by the Act will be those that live in counties and geographies where people are most victimized by violent crime.



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Additional Reasons for Opposition

Judicial Proceedings and Cost: First, the proposed Act will be illegal. Upon its passing, legal action will be taken against the state. It is a near certainty that the legal actions will result in restraining orders against the illegal Act. Further, it is near certain that the Act will be struck down completely and in full. No doubt the State will attempt to argue for the soundness of the Act and its legality, but given its constitutional infirmities relative to the Maryland Declaration of Rights and the US Constitution, the State will not prevail – and the proposed severability of the Act may also be ruled impotent. What will happen is the State will instead expend millions of dollars of direct cost, and countless hours of staff and attorney time trying to defend an indefensible law. It would be far more effective to address the problems this regulation attempts to solve through Constitutional means. For example, it would be better for the state to expend resources on public communications and/or health campaigns that would address the causes of suicides and murders/shootings in Maryland. As noted above, the passage of the Act will not result in a reduction in homicides, shootings or suicides.

Social Fabric: This law will victimize people that wish to exert their right to self-defense outside the home. These people will observe that the right to self-defense remains a disfavored right in Maryland. They will resent being treated as second class citizens, and they will be right to do so. This legislation will damage our social fabric and we should not allow that to happen.

Governmental Distrust: The authors of Maryland’s Declaration of Rights were clear. Legislators are the “Trustees of the Public.” Adoption of the Act will alienate a large percentage of the Public, and it will only demonstrate to the Public that the Government does not trust the people, even those who are the most reliably law abiding. This Act will NOT contribute to the solution to suicides, murders and shootings; and it will only engender distrust and alienation between the Government and the People. The Government and People will both lose if the bill is adopted.

Capricious Governance: Unfortunately, the vice-Chair of this Senate Committee has publicly stated that this legislation is in response to a “terrible” US Supreme Court decisions. As demonstrated above, the Act violates the rights of Maryland residents and US citizens. The recent Supreme Court decision (NYSRPA vs Bruen) correctly guides legislators and the judiciary as to how the 2nd Amendment to the US Constitution should be interpreted. The Court’s guidance is clear and simple. The vice-Chair and sponsor of the Gun Safety Act, Senator Waldstreicher, stated in public in January 2023, that he believes the Supreme Court decision to be terrible, and that he disagrees with it. **Whether the Senator agrees with the decision or not, the Bruen decision is the law of the land.** The “Gun Safety Act” is abundantly and clearly in contravention of this decision, and as such it directly disobeys the law of the land in its multitude of constitutional violations.

This Act, and the Senator’s conduct and statements, set a terrible example of appropriate behavior from a “Trustee of the Public.” We do not get to pick and choose what laws and precedents we wish to follow. There are mechanisms for redress that the Senator and other members of the Committee and the Maryland General Assembly can undertake if they are dissatisfied with the Maryland Declaration of Rights and the US Constitution Bill of Rights. The “Gun Safety Act” is not one of them. It violates the US Constitution and the Maryland Declaration of Rights on their face, and as such it is illegal.

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The “Gun Safety Act” is an example of capricious governance. If the Senator, the Committee and the Maryland General Assembly choose to ignore the law of the land by enacting this legislation, and to subvert fundamental human rights by the Acts design, and to violate the Maryland Declaration of Rights and the US Bill of Rights, why should ANYONE follow ANY law that the General Assembly passes??? If the Trustees of the Public choose to act capriciously and un-Constitutionally, no one should be surprised when members of the public behave likewise on ANY legislative matter those same Trustees produce.

The “Gun Safety Act” should be struck as soon as possible to ensure that the People understand that the Trustees also follow the law. The General Assembly should look to other ways to solve the problems of murders, shootings and suicides in the state without destroying the entire democratic foundations of the Free State along the way.

Injuries and Deaths to Innocent Victims of Crime: Lastly, and most importantly, the State of Maryland and the United States are based on civil rights and freedom. The “Gun Safety Act” subverts the right to self-defense outside the home. It will surely result in innocent victims of violent crime being killed, raped, wounded or injured. The Act strips away the right to self-defense for the most vulnerable people in our society (women) and it disenfranchises the poorest of us, who are the people that are most at risk for being victims of criminal violence. This Act cannot stand because the people that are most at risk for the occurrence and impact of criminal violence, are the people that are most likely to want to exercise their right to self-defense in public.

PLEASE DO NOT PASS THE “GUN SAFETY ACT OF 2023.” SB-0001 violates the Second Amendment of the US Bill of Rights, and the prescriptions of the U.S. Supreme Court’s Heller, McDonald and Bruen decisions, among many others. The bill is counter to the plain text meaning of the Second Amendment to the U.S. Constitution. It is also outside the norms of all known and referenced historical regulations from the era of the nation’s founding. There are no founding era historical analogs to the bill’s proposed regulations. And the bill matches the historical tradition of the early 20th century instead of the era of the country’s founding. It does not match historical tradition of the country’s founding. Therefore the Act is illegal because it contravenes the U.S. Constitution and Bill of Rights. It violates the human and Constitutional right to self-defense outside the home.

It is illegal. It will NOT solve the problems of suicides, murders and criminal shootings. It subverts and eviscerates our civil rights, the Maryland Declaration of Rights and the US Constitution. It will contribute to corruption of government and the alienation of the People from Maryland’s elected Trustees. It will further damage the fabric of our society. And it will leave the most vulnerable people among us, especially women, people of color and people living in geographies with the highest violent crime rates continually exposed to criminal violence. PLEASE DO NOT PASS THIS LEGISLATION.

Thank you for your consideration.

Frank Clary

27 March 2023