



House Bill 869
Public Safety – Firearm Background Checks, Victim Notification, and
the Maryland State Police Gun Center
UNFAVORABLE

According to the Maryland State Police, during 2023 there were twenty-one attempts to purchase a firearm by persons subject to a final protective order. The Maryland Courts' website reports in 2023, a total of 24,892 Final Protective Orders were issued. (Page 3)

We do not object to victims having the means to protect themselves as a respondent may present a clear and present danger to the victim. This is why we supported the existence of a protective order as a "good and substantial" reason for a permit to wear and carry a handgun for self-defense prior to the Bruen decision. Our urgings feel upon deaf ears.

Our opposition to House Bill 869 is two-fold; the first is legal and the second is based upon logistical and practical considerations.

Legal Issues:

It should be noted that this bill is limited to final protective orders. Temporary protective orders are beyond the scope of this bill.

The actions required under the proposed Public Safety §3-531 (B) require law enforcement to notify the victim if a prohibited person, who is the subject of a final protective order between that prohibited person and the victim, failed a background check. This action is unlawful under General Provisions Article §4-325 "... a custodian shall deny inspection of all records of a person authorized to: sell, purchase, rent, or transfer a regulated firearm under Title 5, Subtitle 1 of the Public Safety Article. Such information can be shared with the person who was denied, that person's lawyer and with law enforcement. It cannot be shared with the victim. On this basis alone House Bill 869 is not legally feasible.

Logistical Issues:

Public Safety §3-531 (C) protects a law enforcement agency from civil liability if the agency acts in good faith and in a reasonable manner. It provides no civil liability protection whatsoever for the licensee who would be required to report information under Public Safety §5-803(e): "...A LICENSEE IN THE STATE 6 SHALL NOTIFY THE CENTER OF ANY BACKGROUND CHECK DENIALS AS REQUIRED 7 UNDER §§ 5–122 AND 5–123 OF THIS TITLE."

Public Safety §5-123 (E) "...THE LICENSEE SHALL NOTIFY THE MARYLAND STATE 25 POLICE GUN CENTER OF:

- (1) THE IDENTITY OF THE PROSPECTIVE PURCHASER, LESSEE, OR 27 TRANSFEREE;
- (2) THE DATE AND TIME OF THE DENIAL;
- (3) THE LOCATION WHERE THE PROSPECTIVE PURCHASER, LESSEE, OR TRANSFEREE SOUGHT TO OBTAIN THE FIREARM; AND
- (4) THE REASON OR REASONS FOR THE DENIAL

This section requires the licensee to divulge information which is unlawful under General Provisions Article §4-325. Further it requires the licensee to provide the reason for the denial which is not something the licensee has access to.

The bill totally ignores the fact that the Maryland State Police Gun Center is a law enforcement entity and not a public portal. It cannot receive information from non-law enforcement entities.

Public Safety §5-804 requires the Maryland Gun Center to notify multiple agencies when a person is denied under §5-803(E). In addition to creating a logistical burden, this is not part of a law enforcement agencies official duties and appears to violate General Provisions Article §4-325.

The annual reporting requirement creates an additional burden of compiling academic information of questionable value.

Taken as a whole, House Bill 869 engenders more problems than it solves. We recommend an unfavorable report.

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Final Protective Orders Issues in Maryland by Month and Gender

Gender	Female	Male	Unknown
Jan	496	1534	30
Fed	482	1415	23
Mar	580	1714	29
Apr	480	1412	23
May	612	1669	35
June	567	1582	41
July	538	1474	30
Aug	571	1634	22
Sept	520	1480	17
Oct	522	1566	33
Nov	524	1451	26
Dec	472	1356	22
Column Total	6,364	18,287	331
2023 Grand Total		24,982	
2023 Purchase Attempts		23	
Percent of 2023 Total		0.09%	

Protective Order Data Source:

<https://www.courts.state.md.us/eservices/dvmonthlypublicreports>

Purchase Attempt Data Source: Maryland State Police

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§4-325.

(a) Except as provided in subsections (b) and (c) of this section, a custodian shall deny inspection of all records of a person authorized to:

(1) sell, purchase, rent, or transfer a regulated firearm under Title 5, Subtitle 1 of the Public Safety Article; or

(2) carry, wear, or transport a handgun under Title 5, Subtitle 3 of the Public Safety Article.

(b) A custodian shall allow inspection of firearm or handgun records by:

(1) the individual named in the record; or

(2) the attorney of record of the individual named in the record.

(c) This section may not be construed to prohibit the Department of State Police or the Department of Public Safety and Correctional Services from accessing firearm or handgun records in the performance of that department's official duty.

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