



President
Mark W. Pennak

February 12, 2026

**WRITTEN TESTIMONY OF MARK W. PENNAK, PRESIDENT,
MARYLAND SHALL ISSUE IN OPPOSITION TO SB 362**

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is a Section 501(c)(4), all-volunteer, non-partisan, non-profit organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia and the Bar of Maryland. I retired from the United States Department of Justice, where I practiced law for 33 years in the Courts of Appeals of the United States and in the Supreme Court of the United States. I am an expert in Maryland Firearms Law and the law of self-defense. I am also a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License (“HQL”) and a certified NRA instructor in rifle, pistol and personal protection in the home and outside the home and muzzle loading. I appear today as President of MSI in OPPOSITION TO SB 362

Current Law and This Bill:

As last amended in 2023 by Senate Bill 858, 2023 Maryland Laws, Ch. 622, MD Code, Criminal Law, § 4-104(c) provides: “A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised minor has access to the firearm.” SB 858 strengthened other provisions of Section 4-104 to apply to access by all “minors” (instead of persons under the age of 16) and amended Section 4-104(c) to apply to any “access” by the minor. SB 858 left unchanged the punishment provisions of Section 4-104(d), providing that “[a] person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.” MD Code, Criminal Law, § 4-104(d). House Bill 824, also enacted in 2023, see 2023 Maryland Session Laws, Ch. 651, imposes firearms disqualifications for the wear and carry permit if a person has been convicted of improper storage of a firearm under MD Code, Criminal Law, § 4-104. See MD Code, Public Safety, § 5-306(a-2)(d).¹ This Bill amends the penalty

¹ MD Code, Public Safety, § 5-306(a-2)(d) provides:

- (1) The Secretary may not issue a permit to a person if the person:
 - (i) has been convicted on or after October 1, 2023, of a second or subsequent violation of § 4-104 of the Criminal Law Article; or
 - (ii) has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article if the violation resulted in the use of a loaded firearm by a minor causing death or serious bodily injury to the minor or another person.
- (2) Subject to paragraph (1) of this subsection, the Secretary may not issue a permit to a person who has been convicted on or after October 1, 2023, of a violation of § 4-104 of the Criminal Law Article for 5 years following the date of the conviction.

under Section 4-104(d) to provide: “A person who violates this section is guilty of a misdemeanor and on conviction is subject to IMPRISONMENT NOT EXCEEDING 5 YEARS OR a fine not exceeding \$1,000 OR BOTH.”

Discussion:

MSI supports safe storage and, as an instructor, the undersigned gives such instruction in the HQL and wear and carry courses, as required by State law.² This Bill, however, is extreme and unnecessary. As outlined above, the General Assembly has already strengthened Section 4-104 in 2023 as part of a comprehensive package of legislation. This Bill ignores that history and unaccountably amends the punishment provisions of Section 4-104 to match the imprisonment provisions of the reckless endangerment statute, MD Code, Criminal Law, § 3-204. Specifically, Section 3-204(a) provides that “a person may not recklessly: (1) engage in conduct that creates a substantial risk of death or serious physical injury to another.” Section 3-204(b) provides that “[a] person who violates this section is guilty of the misdemeanor of reckless endangerment and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.”

Current law provides for other punishments as well. See, e.g., *Williams v. State*, 100 Md.App. 468, 486, 641 A.2d 990 (1994) (“[T]he act of pointing a firearm at a nearby human being, without being certain that the weapon will not discharge, generally is sufficiently reckless to support a conviction for involuntary manslaughter where the unintended discharge of the weapon results in death. Similarly, “where the discharge of the weapon resulted in a wounding short of death, the same degree of recklessness supports the battery conviction.” *Duckworth v. State*, 323 Md. 532, 541, 594 A.2d 109 (1991). Or a person may be held civilly liable in tort for harm to a person or property. All these potentially severe legal consequences provide strong incentives for the safe handling of firearms.

All these provisions allow a prosecutor to tailor charges to fit the facts. Certainly not all violations of Section 4-104 are equivalent to reckless endangerment. The risk associated with allowing access to a firearm by a minor will necessarily vary by the facts presented in any given instance, including the age of the minor and the circumstances presented. For example, the risks and culpability associated with inadvertently allowing access to a 17-year-old who has been trained by a parent or instructor³ is obviously much different than access deliberately or recklessly

² See MD Code, Public Safety, § 5-117.1(d)(3)(ii) (requiring instruction in “State firearm law”); MD Code, Public Safety, § 5-306(a-1)(2)(i) (requiring instruction, *inter alia*, on “the safe storage of firearms”).

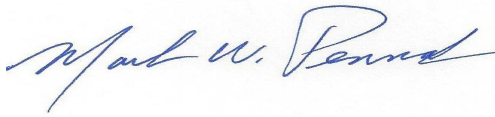
³ See, e.g., MD Code, Public Safety, § 5-133(d):

- (1) Except as provided in paragraph (2) of this subsection, a person who is under the age of 21 years may not possess a regulated firearm.
- (2) Unless a person is otherwise prohibited from possessing a regulated firearm, this subsection does not apply to:

allowed to an untrained small child. In contrast, the reckless endangerment “statute was enacted ‘to punish, as criminal, reckless conduct which created a substantial risk of death or serious physical injury to another person.’” *Holbrook v. State*, 364 Md. 354, 365, 772 A.2d 1240 (2001), quoting *Minor v. State*, 326 Md. 436, 441, 605 A.2d 138 (1992). There is no reason to conflate the two crimes. If the facts show that a given instance of access posed “a substantial risk of death or serious physical injury,” then the State’s Attorney is free to bring charges under the reckless endangerment statute **in addition** to the punishment allowed under Section 4-104(d). As the General Assembly recognized in 2023 in enacting HB 824 and SB 858, the two crimes address different conduct for different reasons and thus warrant different punishments.

We urge an unfavorable report.

Sincerely,



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- (i) the temporary transfer or possession of a regulated firearm if the person is:
1. under the supervision of another who is at least 21 years old and who is not prohibited by State or federal law from possessing a firearm; and
 2. acting with the permission of the parent or legal guardian of the transferee or person in possession.