

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 869
 Judiciary

(Delegate Bartlett)

**Public Safety – Firearm Background Checks, Victim Notification, and the
 Maryland State Police Gun Center**

This bill expands the purpose of the Maryland State Police Gun Center to include the tracking, screening, and vetting of all background check denials for firearm applicants in the State. Likewise, the requirement for the center to create and maintain a statewide database to track specified firearms information is expanded to include such background check denials. The Secretary of State Police and licensed firearms dealers in the State must notify the center of any background check denials, and the center must then notify local law enforcement agencies of all such background check denials. If a law enforcement agency receives a report of a “prohibited person” failing a background check, the law enforcement agency must, under specified conditions, immediately notify the “victim”. By December 1 each year, beginning in 2025, the center must report to the Governor and the General Assembly specified information relating to background check denials.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$651,500 only in FY 2025 for one-time computer programming changes. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	651,500	0	0	0	0
Net Effect	(\$651,500)	\$0	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Although the bill likely has an operational impact on local law enforcement agencies, it is not anticipated to materially affect local government finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

Notification by Secretary of State Police: If the Secretary disapproves a firearm application because the prospective purchaser, lessee, or transferee failed to pass a background check, the Secretary must notify the Gun Center of (1) the identity of the prospective purchaser, lessee, or 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.

Notification by Licensed Firearms Dealer: If a licensee does not sell or transfer a regulated firearm to a prospective purchaser, lessee, or transferee because the prospective purchaser, lessee, or transferee failed to pass a background check, the licensee must notify the Gun Center of (1) the identity of the prospective purchaser, lessee, or 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.

Notification by Maryland State Police Gun Center: The center must notify local law enforcement agencies of all background check denials reported to the center under the provisions described above based on (1) the city, county, and zip code of the licensee or (2) the city, county, and zip code of the prospective firearm applicant's legal residence if different from the licensee. The required notice must generally be sent within 24 hours and include (1) the date and time of the background check denial; (2) the reason or reasons for the denial; (3) the city, county, and zip code of the licensee; and (4) the identity of the person denied. The notice may be delayed to avoid compromising an active criminal investigation.

If the original background check denial changes in status, the center must send an updated notice to all law enforcement agencies that received the original notice.

Notification by Law Enforcement Agency: If a law enforcement agency receives a report of a "prohibited person" failing a background check in accordance with 18 U.S.C. § 925B (reporting of background check denials to state authorities) or the bill's provisions, the law enforcement agency must immediately notify the victim if the prohibited person failed the background check because of (1) a final protective order between the prohibited person and the victim or (2) violating a final protective order between the prohibited person and the victim. A law enforcement agency that notifies a victim in accordance with these provisions is immune from civil liability if the law enforcement agency acts in good faith and in a reasonable manner.

Defined Terms: “Prohibited person” means a person who fails a background check because of a final protective order or violating a protective order. “Victim” means a holder of a final protective order.

Current Law:

Maryland State Police Gun Center: The Maryland State Police Gun Center within the Department of State Police (DSP) is a statewide firearms enforcement center for the tracking, screening, and vetting of all firearm crimes committed in the State and firearms surrendered under final protective orders in the State. The center must (1) create and maintain a statewide database to track information on crimes committed with crime firearms and firearms surrendered under final protective orders in the State; (2) coordinate with DSP and law enforcement agencies to screen and vet all firearm crimes committed in the State; and (3) assist DSP and law enforcement agencies with firearm enforcement and firearm violation reduction efforts. Each law enforcement agency must report specified information to the center on both crimes committed in the jurisdiction with crime firearms and firearms surrendered under final protective orders issued in the jurisdiction.

Regulation of Firearms: DSP regulates firearms and regulated firearms dealer licensees under provisions of the Public Safety Article. Before a person purchases, rents, or transfers a regulated firearm in the State, the person must submit to DSP or other designated law enforcement agency a firearm application that identifies the applicant and the firearm that is the subject of the transaction. Applications are investigated by DSP, which includes a background check, and are subject to a seven-day waiting period before the transaction may take place. Chapter 11 of 2021 requires that before a sale, rental, or transfer of a rifle or shotgun is conducted, the seller, lessor, or transferor and purchaser, lessee, or transferee both request that a licensed firearms dealer facilitate the sale, rental, or transfer.

A person must lawfully possess a regulated firearms dealer’s license issued by the Secretary of State Police before the person engages in the business of selling, renting, or transferring regulated firearms. One dealer’s license is required for each place of business where regulated firearms are sold.

Reports of sales of all regulated firearms must be forwarded to DSP within seven days of the completed sale. A dealer must also forward all disapproved applications that are being held. A dealer must maintain the dealer’s copy of the application form for a minimum of three years. The prospective seller, lessor, or transferor must keep one copy of the firearm application for at least three years. These records must be open for inspection by any law enforcement officer during normal business hours or as specifically requested by the Secretary.

State licensees must also have a federal firearms license issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Prohibitions on the Sale, Rental, or Transfer of Regulated Firearms: A dealer or other person is prohibited from selling, renting, or transferring a regulated firearm to a purchaser, lessee, or transferee who the dealer or other person knows or has reasonable cause to believe is prohibited from possessing a regulated firearm under current law, including for being a respondent against whom a current non *ex parte* civil protective order has been entered.

A violator is guilty of a misdemeanor and on conviction subject to maximum penalties of imprisonment for five years and/or a \$10,000 fine. Each violation is a separate crime.

Prohibitions on Possession: Generally, a person is prohibited from possessing regulated firearms, rifles, and shotguns if the person has been convicted of specified crimes or meets other conditions, including that the person is a respondent against whom a current non *ex parte* civil protective order has been entered in this State or an order for protection has been issued by a court of another state or a Native American tribe and is in effect. In addition, a person is prohibited from possessing a regulated firearm if the person is on supervised probation after being convicted for violating a protective order under § 4-509 of the Family Law Article.

Access to Records: Generally, a custodian must 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. However, a custodian must allow inspection of firearm or handgun records by the individual named in the record or the attorney of record of the individual named in the record. These provisions may not be construed to prohibit DSP or the Department of Public Safety and Correctional Services from accessing firearm or handgun records in the performance of that department's official duty.

Protective Orders: Only a "person eligible for relief" may file for a protective order under the Family Law Article. A "person eligible for relief" includes:

- the current or former spouse of the respondent;
- a cohabitant of the respondent;
- a person related to the respondent by blood, marriage, or adoption;
- a parent, stepparent, child or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition;
- a vulnerable adult;

- an individual who has a child in common with the respondent;
- an individual who has had a sexual relationship with the respondent within one year before filing of the petition; and
- an individual who alleges that the respondent committed (or attempted), within six months before the filing of the petition, rape or specified sexual offenses.

A person eligible for relief may file a petition for a protective order, alleging that the respondent has committed an act of “abuse.” For the purpose of protective orders, “abuse” means (1) an act that causes serious bodily harm; (2) an act that places a person eligible for relief in fear of serious bodily harm; (3) assault in any degree; (4) rape or sexual offense, as specified; (5) false imprisonment; (6) stalking; or (7) revenge porn.

Among other relief, a final protective order may order the respondent to (1) refrain from abusing or threatening to abuse any person eligible for relief; (2) refrain from contacting, attempting to contact, or harassing any person eligible for relief; (3) refrain from entering the residence of any person eligible for relief; (4) remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members; or (5) remain away from a child care provider of a person eligible for relief while the child is in the provider’s care. A final protective order may also address issues relating to custody and visitation, use and possession of a home or vehicle, emergency family maintenance, counseling, payment of costs, and temporary possession of a pet. A final protective order must require the respondent to surrender to law enforcement authorities any firearm in the respondent’s possession and to refrain from possession of any firearm for the duration of the protective order. All relief granted in a final protective order is effective for the period stated in the order, generally up to a maximum of 12 months. A final protective order may be issued for up to two years in specified circumstances set forth in statute. Statutory provisions also set forth circumstances under which a final protective order may be modified, rescinded, or extended.

A person who violates specified provisions of a protective order, including the surrender of firearms, is guilty of a misdemeanor and subject to maximum penalties of a \$1,000 fine and/or 90 days imprisonment for a first offense and a \$2,500 fine and/or one year imprisonment for a second or subsequent offense.

State Expenditures: General fund expenditures for DSP increase by at least \$651,500 in fiscal 2025 only for one-time computer programming changes. The information used in calculating the estimate are stated below:

- while the center is located within DSP, records relating to firearms applications are maintained exclusively within the licensing division of DSP;

- neither the center nor licensed firearms dealers have access to licensing division records and under provisions of current law that are unchanged by the bill, DSP is only authorized to provide access to firearm and handgun records to the individual named in the record and the attorney of record of the individual named in the record;
- to the extent that DSP is able to provide access to information relating to firearm application denials, DSP needs to update its licensing portal to provide limited access to firearm application records to those authorized under the bill (at an estimated cost of \$140,500); and
- the center’s database is currently in development and expected to be completed in the first quarter of calendar 2025; however, in order to incorporate the required information relating to background check denials from the licensing division into the center’s database, modifications are necessary (at an estimated cost of \$511,000).

DSP is unable to determine how notifications from the center to law enforcement agencies or notifications from licensed firearms dealers to the center will occur until the center’s database is complete. To the extent that additional modifications to the center’s database are necessary, general fund expenditures increase further.

Small Business Effect: The bill may have a meaningful impact on small businesses with firearms licenses to the extent that they must obtain and provide additional information required for sales or transfers that are not completed.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 753 (Senator Hettleman) - Judicial Proceedings.

Information Source(s): Anne Arundel, Baltimore, Frederick, and Montgomery counties; cities of Frederick and Havre de Grace; Judiciary (Administrative Office of the Courts); Department of State Police; Department of Legislative Services

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