



# Montgomery County

## Office of Intergovernmental Relations

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SB 1

DATE: February 7, 2023

SPONSOR: Senators Waldstreicher and Lee

ASSIGNED TO: Judicial Proceedings

CONTACT PERSON: Kathleen Boucher (Kathleen.boucher@montgomerycountymd.gov)

POSITION: Support

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### **Criminal Law – Wearing, Carrying, or Transporting Firearms – Restrictions (Gun Safety Act of 2023)**

With certain exceptions, this bill prohibits a person from wearing, carrying, or transporting a firearm on the real property of another unless the owner has given express permission either to the person or the public generally. The bill expressly states that it does not apply to property owned by the State or a political subdivision of a State. The bill also prohibits a person from knowingly wearing, carrying, or transporting a firearm within 100 feet of a “place of public accommodation”. This term includes: (1) an inn, hotel, motel, or other establishment that provides transient lodging; (2) restaurants, cafeterias, and other facilities principally engaged in selling food or alcoholic beverages for consumption; (3) movie theaters, theaters, sports arenas, and other places of exhibition or entertainment; and (4) retail establishments. A violation of the bill is a misdemeanor subject to imprisonment for up to one year.

The bill is an important step for Maryland that must be taken in light of the decision of the United States Supreme Court in *New York State Rifle & Pistol Assn. v. Bruen*, *Superintendent of New York State Police* (June 23, 2022), which overturned New York’s handgun wear and carry law. The New York law required an applicant for handgun wear and carry permit to show “proper cause” for the permit. The Court held that the requirement violated the Second Amendment’s right to bear arms. At the time of the *Bruen* decision, Maryland had a similar “good and substantial reason” requirement for wear and carry handgun permits. One week after the *Bruen* decision, the Maryland Court of Special Appeals struck down that requirement as unconstitutional.

In *Bruen*, the Court explained that certain types of laws that are “consistent with the Nation’s historical tradition of firearm regulation” do not violate the Second Amendment. As an example of modern laws that could pass muster by means of historical analogy the Court pointed to laws prohibiting firearms in “sensitive places” such as schools, courthouses, polling

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places, legislative assemblies, and other government buildings. In the wake of *Bruen*, State and local governments around the country are considering and, in some cases, have already passed (e.g., New York and New Jersey) legislation to expand the list of places where individuals, even those with wear and carry permits, are prohibited from carrying firearms. The fundamental concern underlying these efforts is that *Bruen* has resulted in significantly more wear and carry permits being issued to individuals who have no good reason to carry a firearm and that this problem will only grow worse over time.

Montgomery County enacted a law last November that expands the definition of places of public assembly where individuals are prohibited from wearing or carrying firearm. The term “places of public assembly” is now defined to mean a publicly or privately owned: (1) park; (2) place of worship; (3) school; (4) library; (5) recreational facility; (6) hospital; (7) community health center; (8) long-term care facility; (9) multipurpose exhibition facility (e.g., fairground or conference center); and (10) child care facility. It also includes a government building, polling place, courthouse, legislative assembly, and any gathering of individuals to collectively express their constitutional right to protest or assemble.

The County strongly supports any effort by the General Assembly to expand the places where firearms cannot be carried in the State and urges the Senate Judicial Proceedings Committee to vote favorable on Senate Bill 1 with any amendments that the Committee determines to be necessary to allow the bill to pass constitutional muster.