



Legislative Analysis

Effects of the Childers Substitute to H.R. 6842 on the Possession and Use of Firearms in the District of Columbia

Committee on Oversight and Government Reform

1. Repeal of the District's Firearm Registration System

Under current law, the District requires firearms to be registered with the D.C. Chief of Police.¹ Before an applicant may receive a registration certificate, he or she must be cleared through criminal background checks conducted by both the Chief of Police and the federal National Instant Criminal Background Check system.² Under the District's current law, applicants must undergo both background checks before purchasing firearms from any source.³ In addition, the Metropolitan Police Department performs a "ballistics identification" procedure during which it fires the weapon and retrieves the spent ammunition in order to obtain a ballistic fingerprint of the gun.⁴

The registration system has an important deterrent effect. Under federal law, background checks are performed only for firearms purchased from federally licensed firearms dealers.⁵ No federal records are kept when guns are transferred through gun shows or secondhand sales or are given away. The District's registration system ensures that law enforcement officials know the identity of everyone possessing a lawful firearm in the District regardless of how the weapon was obtained.

Section 5 of the Childers substitute would repeal this registration system. As a result, the District would not know which residents possess lawful firearms. Individuals who acquire secondhand firearms would know that there would be no official record (either federal or local) linking them to the weapon.

At a House Oversight Committee hearing held on September 8, 2008, D.C. Metropolitan Police Chief Cathy Lanier testified that the city's firearms registration requirement is an important anti-terrorism measure. She stated:

By having to register a firearm, you, typically, would have to come in and prove your identity. So, that adds another layer of risk for a terrorist. If you remove that registration process and other laws around gun possession and carrying in the district, you now have removed a lot of the illegal acts that potential terrorist would have to go through, elevating the risk of detection and being caught, thus deterring their attack, long before they get to that attack.

¹ D.C. Code § 7-2502.01 (including exceptions for law enforcement officers, military personnel, and licensed firearms dealers).

² D.C. Code § 7-2502.03 and The Brady Handgun Violence Protection Act of 1993, 18 U.S.C. § 921 *et seq.*

³ D.C. Code § 7-2502.03.

⁴ The Firearms Control Emergency Amendment Act of 2008, D.C. Legis. Act 17-422 § 2(b) (2008). *See also* "Second Firearms Control Emergency Act of 2008" (passed by the District of Columbia City Council on Sept. 16, 2008).

⁵ The Brady Handgun Violence Prevention Act of 1993, 18 U.S.C. § 921 *et seq.*

2. Repeal of Criminal Background Checks for Secondhand Sales

Current District law requires criminal background checks for all firearm purchases.⁶ In contrast, federal law requires criminal background checks only for firearms purchased from federally licensed firearms dealers.⁷ Federal law does not require criminal background checks for secondhand purchases or purchases at gun shows.

Section 5 of the Childers substitute would repeal the District's requirement for criminal background checks.

3. Repeal of the District's Ban on High-Capacity Ammunition Magazines

Prior to September 16, 2008, the District banned the possession of semiautomatic weapons. The District repealed this ban on September 16, but it established in its place a prohibition on the size of the magazines that can be used with these weapons. Under the new District law, these magazines must hold ten rounds or less.⁸ The Childers substitute does not contain this prohibition on high-capacity magazines.

During testimony before the Oversight Committee on September 9, 2008, D.C. Police Chief Cathy Lanier expressed her concern about the devastating damage that semiautomatic weapons with high-capacity magazines can inflict, stating: "Our concern really has been with the high-capacity semiautomatic weapons, because of the ability for them to do a large amount of damage in a short period of time, and particularly, with semiautomatic handguns, which are easily concealed and could be taken into a public place very quickly."

4. Repeal of District Prohibitions on Gun Ownership

Current District law prohibits firearm ownership by individuals who have been convicted of any criminal offenses involving weapons, violence, assault, or threats to do bodily harm.⁹ These prohibitions are more stringent than federal limitations on gun ownership, which prohibit gun ownership by individuals convicted of felonies, not misdemeanors. Under federal law, an individual convicted in the District of illegal possession of a concealed firearm, which is a misdemeanor offense, could lawfully purchase a firearm.

Section 5 of the Childers substitute would repeal these additional District prohibitions.

5. Prohibition on District Enactment of New Gun Laws

Under current District law, the Council is authorized to make "all such usual and reasonable police regulations ... as the Council may deem necessary for the regulation of firearms, projectiles, explosives, or weapons of any kind in the District of Columbia."¹⁰

⁶ D.C. Code § 7-2502.03.

⁷ The Brady Handgun Violence Prevention Act of 1993, 18 U.S.C. § 921 *et seq.*

⁸ "Second Firearms Control Emergency Act of 2008" (passed by the District of Columbia City Council on Sept. 16, 2008).

⁹ D.C. Code § 7-2502.03.

¹⁰ D.C. Code § 1-303.43.

Section 3 of the Childers substitute would add the following restriction:

Nothing in this section or any other provision of law shall authorize, or shall be construed to permit, the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons not prohibited from possessing firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor subject to the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.

The Childers substitute contains one exception to this prohibition. The legislation affirmatively gives individuals the right to carry loaded weapons in their residences and places of business, but it does allow the District to restrict the carrying of weapons on public streets.

According to D.C. Police Chief Cathy Lanier:

I have grave concerns about the proposed bill, which would prevent the District of Columbia from registering firearms, or taking many other reasonable and commonly-used steps — taken by states and municipalities across the country — to regulate or limit possession and use of firearms.

6. Repeal of Federal Interstate Trafficking Prohibitions

Federal law prohibits a federally licensed gun dealer from selling handguns to residents of other states.¹¹ The purpose of this prohibition is to prevent gun traffickers from purchasing weapons in one state and then transporting them to a state where the weapons may violate state or local laws. Section 10 of the Childers substitute repeals this prohibition on gun trafficking and allows District residents to purchase handguns from gun shops in Virginia and Maryland.

¹¹ 18 U.S.C. §922(b)(3).