

March 13, 2024

TESTIMONY OF THE OFFICE OF THE PUBLIC DEFENDER (OPD) REGARDING:

House Bill No: H7752

ENTITLED, AN ACT RELATING TO CRIMINAL OFFENSES – WEAPONS

Chairman Craven and Member of the House Judiciary Committee:

The Office of the Public Defender opposes House Bill 7752, which seeks to regulate the purchase, use, and possession of stun guns. While we understand the importance of public safety, we believe that this proposed legislation raises several significant concerns that need careful consideration.

The first issue with H7752 is the provision that would make the possession of a stun gun without a license a felony offense. Unfortunately, the bill fails to address the necessary amendments to the licensing statute, leaving a critical gap in the ability of law enforcement agencies to issue such licenses. This oversight creates an undue burden on individuals seeking lawful possession of stun guns and could potentially lead to unintended legal consequences.

The second troubling aspect of this bill is the proposed enhancement of penalties for the possession of a stun gun to a 10-year maximum sentence. Historically, possession of a stun gun has been treated as a misdemeanor, and this sudden escalation in penalties seems disproportionate. Penalizing the possession of a non-lethal stun gun on par with a lethal firearm raises serious questions about the appropriateness of such measures.

Furthermore, it is important to note that it is settled law that stun guns are "arms" as that term is understood under the Second Amendment. The Supreme Court's decision in *Bruen* would likely pose a significant challenge to the licensing regime proposed by H7752, as there is no historical analog supporting such restrictions. This legal precedent should be carefully considered when evaluating the constitutionality of this bill.

Finally, the provision making possession of a stun gun during the commission of any crime a felony offense with a maximum sentence of 10 years is unprecedented. The only other similar provision is the crime of possession of a firearm while committing a crime of violence which is a felony with a maximum of 10 years for a first offense. While we acknowledge the need to address criminal activity, treating possession of a non-lethal stun gun more severely than possession of a lethal firearm during the commission of a crime appears disproportionate and ill-advised.

In conclusion, the OPD respectfully urges the Committee to consider the provisions outlined in H7752. We believe that a more measured and balanced approach is necessary to

ensure public safety without infringing on constitutional rights or imposing overly harsh penalties. Our office is available for any further discussions or clarifications on these concerns.
Sincerely,

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