

HOUSE BILL 1001

E2

6lr3545
CF SB 943

By: Delegates Smith, Dumais, Anderson, Angel, Atterbeary, Barkley, B. Barnes, Barron, Barve, Branch, Brooks, Busch, Carr, Chang, Clippinger, Conaway, Cullison, Davis, Ebersole, Fennell, Frick, Frush, Gaines, Gilchrist, Gutierrez, Haynes, Hettleman, Hill, Hixson, Holmes, C. Howard, Jalisi, Jones, Kaiser, Kelly, Korman, Kramer, Krimm, Lafferty, Lam, Lierman, Luedtke, McIntosh, A. Miller, Moon, Morales, Pena–Melnyk, Platt, Proctor, Reznik, B. Robinson, S. Robinson, Rosenberg, Sample–Hughes, Sanchez, Stein, Sydnor, Tarlau, Turner, Valentino–Smith, Waldstreicher, Walker, A. Washington, M. Washington, and P. Young

Introduced and read first time: February 10, 2016

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Firearms – Transfer**

3 FOR the purpose of providing an exception for a certain person from the prohibition against
4 carrying or transporting a certain firearm under certain circumstances; requiring a
5 court to inform a person convicted of a certain offense that the person is prohibited
6 from possessing a certain firearm under certain provisions of law; requiring the court
7 to advise the person that certain proof must be provided to the court that certain
8 firearms owned by the person or in the person's possession have been transferred
9 from the person's possession; providing for the procedure to transfer certain
10 firearms; requiring a person accepting a transferred firearm to issue a certain notice
11 or proof of transfers; requiring a person who is subject to a certain order to file certain
12 proof with the court or attest certain facts to the court within a certain period;
13 authorizing the disposal of a certain firearm under certain circumstances; defining
14 certain terms; and generally relating to firearms.

15 ~~BY repealing and reenacting, without amendments,~~

16 ~~Article – Criminal Procedure~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 ~~Section 6-233~~
2 ~~Annotated Code of Maryland~~
3 ~~(2008 Replacement Volume and 2015 Supplement)~~

4 BY repealing and reenacting, with amendments,
5 Article – Criminal Law
6 Section 4-203(b) and 4-302
7 Annotated Code of Maryland
8 (2012 Replacement Volume and 2015 Supplement)

9 BY adding to
10 Article – Criminal Procedure
11 Section 6-234
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2015 Supplement)

14 BY adding to
15 Article – Public Safety
16 Section 5-133(f)
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Public Safety
21 Section 5-205(c)
22 Annotated Code of Maryland
23 (2011 Replacement Volume and 2015 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 That the Laws of Maryland read as follows:

26 **Article – Criminal Law**

27 4-203.

28 (b) This section does not prohibit:

29 (1) the wearing, carrying, or transporting of a handgun by a person who is
30 authorized at the time and under the circumstances to wear, carry, or transport the
31 handgun as part of the person’s official equipment, and is:

32 (i) a law enforcement official of the United States, the State, or a
33 county or city of the State;

34 (ii) a member of the armed forces of the United States or of the
35 National Guard on duty or traveling to or from duty;

1 (iii) a law enforcement official of another state or subdivision of
2 another state temporarily in this State on official business;

3 (iv) a correctional officer or warden of a correctional facility in the
4 State;

5 (v) a sheriff or full-time assistant or deputy sheriff of the State; or

6 (vi) a temporary or part-time sheriff's deputy;

7 (2) the wearing, carrying, or transporting of a handgun, in compliance with
8 any limitations imposed under § 5-307 of the Public Safety Article, by a person to whom a
9 permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3
10 of the Public Safety Article;

11 (3) the carrying of a handgun on the person or in a vehicle while the person
12 is transporting the handgun to or from the place of legal purchase or sale, or to or from a
13 bona fide repair shop, or between bona fide residences of the person, or between the bona
14 fide residence and place of business of the person, if the business is operated and owned
15 substantially by the person if each handgun is unloaded and carried in an enclosed case or
16 an enclosed holster;

17 (4) the wearing, carrying, or transporting by a person of a handgun used in
18 connection with an organized military activity, a target shoot, formal or informal target
19 practice, sport shooting event, hunting, a Department of Natural Resources-sponsored
20 firearms and hunter safety class, trapping, or a dog obedience training class or show, while
21 the person is engaged in, on the way to, or returning from that activity if each handgun is
22 unloaded and carried in an enclosed case or an enclosed holster;

23 (5) the moving by a bona fide gun collector of part or all of the collector's
24 gun collection from place to place for public or private exhibition if each handgun is
25 unloaded and carried in an enclosed case or an enclosed holster;

26 (6) the wearing, carrying, or transporting of a handgun by a person on real
27 estate that the person owns or leases or where the person resides or within the confines of
28 a business establishment that the person owns or leases;

29 (7) the wearing, carrying, or transporting of a handgun by a supervisory
30 employee;

31 (i) in the course of employment;

32 (ii) within the confines of the business establishment in which the
33 supervisory employee is employed; and

34 (iii) when so authorized by the owner or manager of the business
35 establishment;

1 (8) the carrying or transporting of a signal pistol or other visual distress
 2 signal approved by the United States Coast Guard in a vessel on the waterways of the State
 3 or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed
 4 case, in a vehicle; [or]

5 (9) the wearing, carrying, or transporting of a handgun by a person who is
 6 carrying a court order requiring the surrender of the handgun, if:

7 (i) the handgun is unloaded;

8 (ii) the person has notified the law enforcement unit, barracks, or
 9 station that the handgun is being transported in accordance with the court order; and

10 (iii) the person transports the handgun directly to the law
 11 enforcement unit, barracks, or station; OR

12 **(10) THE CARRYING OR TRANSPORTING OF A HANDGUN BY A PERSON**
 13 **WHO IS PROHIBITED FROM POSSESSING A HANDGUN BECAUSE THE PERSON HAS**
 14 **BEEN CONVICTED OF A DISQUALIFYING CRIME, AS DEFINED IN § 5-101 OF THE**
 15 **PUBLIC SAFETY ARTICLE, OR THAT PERSON'S REPRESENTATIVE, IF:**

16 **(I) THE HANDGUN IS UNLOADED;**

17 **(II) IT IS WITHIN 2 DAYS AFTER THE CONVICTION OF A**
 18 **DISQUALIFYING CRIME;**

19 **(III) THE PERSON OR THE PERSON'S REPRESENTATIVE HAS**
 20 **NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE HANDGUN**
 21 **IS BEING TRANSPORTED TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO**
 22 **A FEDERALLY LICENSED FIREARMS DEALER FOR THE PURPOSES OF TRANSFERRING**
 23 **THE FIREARM TO THE OFFICIAL OR DEALER; AND**

24 **(IV) THE PERSON OR THE PERSON'S REPRESENTATIVE**
 25 **TRANSPORTS THE HANDGUN DIRECTLY TO THE STATE OR LOCAL LAW**
 26 **ENFORCEMENT OFFICIAL OR FEDERALLY LICENSED FIREARMS DEALER.**

27 4-302.

28 This subtitle does not apply to:

29 (1) if acting within the scope of official business, personnel of the United
 30 States government or a unit of that government, members of the armed forces of the United
 31 States or of the National Guard, law enforcement personnel of the State or a local unit in
 32 the State, or a railroad police officer authorized under Title 3 of the Public Safety Article
 33 or 49 U.S.C. § 28101;

1 (2) a firearm modified to render it permanently inoperative;

2 (3) possession, importation, manufacture, receipt for manufacture,
3 shipment for manufacture, storage, purchases, sales, and transport to or by a licensed
4 firearms dealer or manufacturer who is:

5 (i) providing or servicing an assault weapon or detachable magazine
6 for a law enforcement unit or for personnel exempted under item (1) of this section;

7 (ii) acting to sell or transfer an assault weapon or detachable
8 magazine to a licensed firearm dealer in another state or to an individual purchaser in
9 another state through a licensed firearms dealer; or

10 (iii) acting to return to a customer in another state an assault weapon
11 transferred to the licensed firearms dealer or manufacturer under the terms of a warranty
12 or for repair;

13 (4) organizations that are required or authorized by federal law governing
14 their specific business or activity to maintain assault weapons and applicable ammunition
15 and detachable magazines;

16 (5) the receipt of an assault weapon or detachable magazine by inheritance,
17 and possession of the inherited assault weapon or detachable magazine, if the decedent
18 lawfully possessed the assault weapon or detachable magazine and the person inheriting
19 the assault weapon or detachable magazine is not otherwise disqualified from possessing a
20 regulated firearm;

21 (6) the receipt of an assault weapon or detachable magazine by a personal
22 representative of an estate for purposes of exercising the powers and duties of a personal
23 representative of an estate;

24 (7) possession by a person who is retired in good standing from service with
25 a law enforcement agency of the State or a local unit in the State and is not otherwise
26 prohibited from receiving an assault weapon or detachable magazine if:

27 (i) the assault weapon or detachable magazine is sold or transferred
28 to the person by the law enforcement agency on retirement; or

29 (ii) the assault weapon or detachable magazine was purchased or
30 obtained by the person for official use with the law enforcement agency before retirement;

31 (8) possession or transport by an employee of an armored car company if
32 the individual is acting within the scope of employment and has a permit issued under Title
33 5, Subtitle 3 of the Public Safety Article; [or]

34 (9) possession, receipt, and testing by, or shipping to or from:

1 (i) an ISO 17025 accredited, National Institute of Justice–approved
 2 ballistics testing laboratory; or

3 (ii) a facility or entity that manufactures or provides research and
 4 development testing, analysis, or engineering for personal protective equipment or vehicle
 5 protection systems; OR

6 **(10) THE CARRYING OR TRANSPORTING OF AN ASSAULT WEAPON BY A**
 7 **PERSON WHO IS PROHIBITED FROM POSSESSING THE ASSAULT WEAPON BECAUSE**
 8 **THE PERSON HAS BEEN CONVICTED OF A DISQUALIFYING CRIME, AS DEFINED IN §**
 9 **5–101 OF THE PUBLIC SAFETY ARTICLE, OR THAT PERSON’S REPRESENTATIVE, IF:**

10 **(I) THE FIREARM IS UNLOADED;**

11 **(II) IT IS WITHIN 2 DAYS AFTER THE CONVICTION OF A**
 12 **DISQUALIFYING CRIME;**

13 **(III) THE PERSON OR THE PERSON’S REPRESENTATIVE HAS**
 14 **NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE FIREARM**
 15 **IS BEING TRANSPORTED TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO**
 16 **A FEDERALLY LICENSED FIREARMS DEALER FOR THE PURPOSES OF TRANSFERRING**
 17 **THE FIREARM TO THE OFFICIAL OR DEALER; AND**

18 **(IV) THE PERSON OR THE PERSON’S REPRESENTATIVE**
 19 **TRANSPORTS THE FIREARM DIRECTLY TO THE STATE OR LOCAL LAW ENFORCEMENT**
 20 **OFFICIAL OR FEDERALLY LICENSED FIREARMS DEALER.**

21 **Article – Criminal Procedure**

22 ~~6–223.~~

23 ~~(a) In this section, “domestically related crime” means a crime committed by a~~
 24 ~~defendant against a victim who is a person eligible for relief, as defined in § 4–501 of the~~
 25 ~~Family Law Article, or who had a sexual relationship with the defendant within 12 months~~
 26 ~~before the commission of the crime.~~

27 ~~(b) (1) If a defendant is convicted of or receives a probation before judgment~~
 28 ~~disposition for a crime, on request of the State’s Attorney, the court shall make a finding of~~
 29 ~~fact, based on evidence produced at trial, as to whether the crime is a domestically related~~
 30 ~~crime.~~

31 ~~(2) The State has the burden of proving by a preponderance of the evidence~~
 32 ~~that the crime is a domestically related crime.~~

1 ~~(e) If the court finds that the crime is a domestically related crime under~~
2 ~~subsection (b) of this section, that finding shall become part of the court record for purposes~~
3 ~~of reporting to the Criminal Justice Information System Central Repository under §~~
4 ~~10-215 of this article.~~

5 **6-234.**

6 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
7 INDICATED.

8 (2) “CONVICTED OF A DISQUALIFYING CRIME” HAS THE MEANING
9 STATED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE.

10 ~~(2) (3)~~ (3) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN §
11 5-101 OF THE PUBLIC SAFETY ARTICLE.

12 ~~(3) (4)~~ (4) “DISQUALIFYING CRIME” HAS THE MEANING STATED IN §
13 5-101 OF THE PUBLIC SAFETY ARTICLE.

14 ~~(4) “DOMESTICALLY RELATED CRIME” HAS THE MEANING STATED IN~~
15 ~~§ 6-233 OF THIS SUBTITLE.~~

16 (B) ~~(1)~~ (1) THE COURT SHALL INFORM A PERSON CONVICTED OF A ~~FELONY~~
17 ~~OR A DISQUALIFYING CRIME THAT IS A DOMESTICALLY RELATED CRIME, EITHER~~
18 VERBALLY OR IN WRITING, THAT THE PERSON IS PROHIBITED FROM POSSESSING;

19 (1) A REGULATED FIREARM UNDER § 5-133 OF THE PUBLIC SAFETY
20 ARTICLE; AND

21 (2) A RIFLE OR SHOTGUN UNDER § 5-205 OF THE PUBLIC SAFETY
22 ARTICLE.

23 ~~(2) THE COURT SHALL INFORM A PERSON RECEIVING A PROBATION~~
24 ~~BEFORE JUDGMENT FOR A DOMESTICALLY RELATED CRIME THAT THE PERSON IS~~
25 ~~PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5-133 OF THE~~
26 ~~PUBLIC SAFETY ARTICLE.~~

27 ~~(3) THE COURT SHALL INFORM A PERSON CONVICTED OF A~~
28 ~~DOMESTICALLY RELATED CRIME THAT IS A DISQUALIFYING CRIME THAT THE~~
29 ~~PERSON IS PROHIBITED FROM POSSESSING A RIFLE OR SHOTGUN UNDER § 5-205 OF~~
30 ~~THE PUBLIC SAFETY ARTICLE.~~

31 (C) (1) THE COURT SHALL FURTHER ADVISE THE PERSON THAT PROOF
32 MUST BE PROVIDED TO THE COURT, IN ACCORDANCE WITH THIS SECTION, THAT ALL
33 FIREARMS OWNED BY THE PERSON OR IN THE PERSON’S POSSESSION THAT VIOLATE

1 THE PROHIBITIONS DESCRIBED IN SUBSECTION (B) OF THIS SECTION HAVE BEEN
2 TRANSFERRED FROM THE PERSON'S POSSESSION.

3 (2) (I) A TRANSFER OF A FIREARM UNDER THIS SUBSECTION
4 SHALL BE MADE WITHIN 2 DAYS AFTER THE CONVICTION ~~OR ENTRY OF PROBATION~~
5 ~~BEFORE JUDGMENT~~ OF A DISQUALIFYING CRIME TO A STATE OR LOCAL LAW
6 ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER.

7 (II) A PERSON PROHIBITED FROM POSSESSING A FIREARM
8 UNDER § 5-133 OR ~~§ 5-206~~ § 5-205 OF THE PUBLIC SAFETY ARTICLE MAY
9 DESIGNATE A REPRESENTATIVE TO TRANSFER A FIREARM TO A STATE OR LOCAL
10 LAW ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER.

11 (3) A LAW ENFORCEMENT OFFICIAL OR DEALER ACCEPTING A
12 TRANSFERRED FIREARM UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL ISSUE
13 A WRITTEN NOTICE OF COMPLETED TRANSACTION OR OTHER PROOF OF TRANSFER
14 TO THE PERSON TRANSFERRING THE FIREARM.

15 (4) (I) ~~A~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
16 PARAGRAPH, A WRITTEN NOTICE OF COMPLETED TRANSACTION OR PROOF OF
17 TRANSFER DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION SHALL INCLUDE:

18 ~~(I)~~ 1. THE NAME OF THE PERSON TRANSFERRING THE
19 FIREARM;

20 ~~(II)~~ 2. THE DATE THE FIREARM WAS TRANSFERRED; AND

21 ~~(III)~~ 3. THE SERIAL NUMBER, MAKE, AND MODEL OF THE
22 FIREARM.

23 (II) FOR A FIREARM MANUFACTURED BEFORE 1968,
24 IDENTIFYING MARKS MAY BE SUBSTITUTED FOR THE SERIAL NUMBER REQUIRED BY
25 THIS PARAGRAPH.

26 (D) WITHIN 5 BUSINESS DAYS AFTER BEING ADVISED OF THE REQUIREMENT
27 TO TRANSFER POSSESSION OF A FIREARM UNDER SUBSECTION (C) OF THIS SECTION,
28 A PERSON SHALL:

29 (1) FILE A COPY OF A WRITTEN NOTICE OF COMPLETED TRANSACTION
30 OR PROOF OF TRANSFER WITH THE COURT AND ATTEST THAT ALL FIREARMS OWNED
31 BY THE PERSON OR IN THE PERSON'S POSSESSION HAVE BEEN TRANSFERRED AND
32 THAT THE PERSON DOES NOT OWN OR POSSESS ANY OTHER FIREARMS; OR

1 [(3)] (III) the person transports the rifle or shotgun directly to the law
 2 enforcement unit, barracks, or station; OR

3 (2) A PERSON WHO IS PROHIBITED FROM POSSESSING THE RIFLE OR
 4 SHOTGUN BECAUSE THE PERSON HAS BEEN CONVICTED OF A DISQUALIFYING
 5 CRIME, AS DEFINED IN § 5-101 OF THIS TITLE, OR THAT PERSON'S
 6 REPRESENTATIVE, IF:

7 (I) THE RIFLE OR SHOTGUN IS UNLOADED;

8 (II) IT IS WITHIN 2 DAYS AFTER THE CONVICTION OF A
 9 DISQUALIFYING CRIME;

10 (III) THE PERSON OR THE PERSON'S REPRESENTATIVE HAS
 11 NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE RIFLE OR
 12 SHOTGUN IS BEING TRANSPORTED TO A STATE OR LOCAL LAW ENFORCEMENT
 13 OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER FOR THE PURPOSES OF
 14 TRANSFERRING THE RIFLE OR SHOTGUN TO THE OFFICIAL OR DEALER; AND

15 (IV) THE PERSON OR THE PERSON'S REPRESENTATIVE
 16 TRANSPORTS THE RIFLE OR SHOTGUN DIRECTLY TO THE STATE OR LOCAL LAW
 17 ENFORCEMENT OFFICIAL OR FEDERALLY LICENSED FIREARMS DEALER.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
 19 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.