

HOUSE BILL 1029

E1

8lr3806

By: **Delegates Branch, Anderson, Clippinger, Folden, Glenn, Sanchez, Walker, and Wilson**

Introduced and read first time: February 7, 2018

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Wearing, Carrying, or Transporting Handgun – Subsequent**
3 **Offender**

4 FOR the purpose of prohibiting a court from suspending any part of certain sentences for
5 certain persons who have previously been convicted of certain offenses; clarifying
6 that certain sentences are mandatory minimum sentences; providing that certain
7 persons are not eligible for parole during certain sentences, with a certain exception;
8 and generally relating to the crime of wearing, carrying, or transporting a handgun.

9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 4–203
12 Annotated Code of Maryland
13 (2012 Replacement Volume and 2017 Supplement)

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

16 **Article – Criminal Law**

17 4–203.

18 (a) (1) Except as provided in subsection (b) of this section, a person may not:

19 (i) wear, carry, or transport a handgun, whether concealed or open,
20 on or about the person;

21 (ii) wear, carry, or knowingly transport a handgun, whether
22 concealed or open, in a vehicle traveling on a road or parking lot generally used by the
23 public, highway, waterway, or airway of the State;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (iii) violate item (i) or (ii) of this paragraph while on public school
2 property in the State; or

3 (iv) violate item (i) or (ii) of this paragraph with the deliberate
4 purpose of injuring or killing another person.

5 (2) There is a rebuttable presumption that a person who transports a
6 handgun under paragraph (1)(ii) of this subsection transports the handgun knowingly.

7 (b) This section does not prohibit:

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

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

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

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

17 (iv) a correctional officer or warden of a correctional facility in the
18 State;

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

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

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

25 (3) the carrying of a handgun on the person or in a vehicle while the person
26 is transporting the handgun to or from the place of legal purchase or sale, or to or from a
27 bona fide repair shop, or between bona fide residences of the person, or between the bona
28 fide residence and place of business of the person, if the business is operated and owned
29 substantially by the person if each handgun is unloaded and carried in an enclosed case or
30 an enclosed holster;

31 (4) the wearing, carrying, or transporting by a person of a handgun used in
32 connection with an organized military activity, a target shoot, formal or informal target
33 practice, sport shooting event, hunting, a Department of Natural Resources-sponsored

1 firearms and hunter safety class, trapping, or a dog obedience training class or show, while
2 the person is engaged in, on the way to, or returning from that activity if each handgun is
3 unloaded and carried in an enclosed case or an enclosed holster;

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

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

10 (7) the wearing, carrying, or transporting of a handgun by a supervisory
11 employee:

12 (i) in the course of employment;

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

15 (iii) when so authorized by the owner or manager of the business
16 establishment;

17 (8) the carrying or transporting of a signal pistol or other visual distress
18 signal approved by the United States Coast Guard in a vessel on the waterways of the State
19 or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed
20 case, in a vehicle; or

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

23 (i) the handgun is unloaded;

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

26 (iii) the person transports the handgun directly to the law
27 enforcement unit, barracks, or station.

28 (c) (1) A person who violates this section is guilty of a misdemeanor and on
29 conviction is subject to the penalties provided in this subsection.

30 (2) If the person has not previously been convicted under this section, §
31 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

1 (i) except as provided in item (ii) of this paragraph, the person is
2 subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine of not
3 less than \$250 and not exceeding \$2,500 or both; or

4 (ii) if the person violates subsection (a)(1)(iii) of this section, the
5 person shall be sentenced to imprisonment for not less than 90 days.

6 (3) (i) If the person has previously been convicted once under this
7 section, § 4–204 of this subtitle, or § 4–101 or § 4–102 of this title:

8 1. except as provided in item 2 of this subparagraph, the
9 person is subject to imprisonment for not less than 1 year and not exceeding 10 years; or

10 2. if the person violates subsection (a)(1)(iii) of this section,
11 the person is subject to imprisonment for not less than 3 years and not exceeding 10 years.

12 (ii) The court may not **SUSPEND ANY PART OF OR** impose less than
13 the applicable **MANDATORY** minimum sentence provided under subparagraph (i) of this
14 paragraph.

15 **(III) EXCEPT AS PROVIDED IN § 4–305 OF THE CORRECTIONAL**
16 **SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE**
17 **MANDATORY MINIMUM SENTENCE.**

18 (4) (i) If the person has previously been convicted more than once under
19 this section, § 4–204 of this subtitle, or § 4–101 or § 4–102 of this title, or of any combination
20 of these crimes:

21 1. except as provided in item 2 of this subparagraph, the
22 person is subject to imprisonment for not less than 3 years and not exceeding 10 years; or

23 2. A. if the person violates subsection (a)(1)(iii) of this
24 section, the person is subject to imprisonment for not less than 5 years and not exceeding
25 10 years; or

26 B. if the person violates subsection (a)(1)(iv) of this section,
27 the person is subject to imprisonment for not less than 5 years and not exceeding 10 years.

28 (ii) The court may not **SUSPEND ANY PART OF OR** impose less than
29 the applicable **MANDATORY** minimum sentence provided under subparagraph (i) of this
30 paragraph.

31 **(III) EXCEPT AS PROVIDED IN § 4–305 OF THE CORRECTIONAL**
32 **SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE DURING THE**
33 **MANDATORY MINIMUM SENTENCE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2018.