

HOUSE BILL 1480

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By: **Delegates Lam, Barve, Ebersole, Hill, Hixson, Jalisi, and Pena–Melnyk**
Introduced and read first time: February 12, 2016
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Background Check Accountability Act of 2016**

3 FOR the purpose of altering certain provisions of law to require a certain court and a certain
4 facility to report certain information to the National Instant Criminal Background
5 Check System as soon as practicable, rather than promptly, but no later than the
6 close of business on the business day following receipt of the information; requiring
7 a law enforcement agency to take certain actions before returning a privately owned
8 firearm to an individual; requiring each law enforcement agency to develop a
9 notification protocol that allows a certain petitioner to use a certain number to
10 request to be notified when a law enforcement agency returns a privately owned
11 firearm to a certain individual; authorizing a certain notification to be made in a
12 certain manner; requiring a law enforcement agency to take certain actions if a
13 certain petitioner has requested a certain notification; providing that a certain
14 notification relating to the return of one firearm shall be considered notification for
15 all privately owned firearms for a certain individual under certain circumstances;
16 providing that certain information provided by a certain petitioner is not subject to
17 disclosure under the Maryland Public Information Act; providing that a State or local
18 official, employee, or agent is immune from civil liability for damage for the release
19 of certain information or failure to release certain information under certain
20 circumstances; requiring a law enforcement agency to release a certain firearm to a
21 certain individual under certain circumstances; requiring a law enforcement agency
22 to provide certain notice to a certain individual at a certain time if a firearm cannot
23 be returned because it is required to be held in custody; specifying how a certain
24 notification may be made; providing a certain exception; requiring a custodian to
25 deny inspection of records relating to a certain request for notification made by a
26 certain petitioner under a certain provision of law; requiring the Department of
27 Health and Mental Hygiene to electronically enter certain information into the
28 National Instant Criminal Background Check System on or before a certain date if
29 the information has not already been entered into the system; authorizing the
30 Governor or Secretary of Health and Mental Hygiene to extend a certain deadline

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 for a certain amount of time for good cause shown; defining a certain term; and
2 generally relating to eligibility to possess a firearm.

3 BY repealing and reenacting, with amendments,
4 Article – Public Safety
5 Section 5–133.2
6 Annotated Code of Maryland
7 (2011 Replacement Volume and 2015 Supplement)

8 BY adding to
9 Article – Public Safety
10 Section 5–147
11 Annotated Code of Maryland
12 (2011 Replacement Volume and 2015 Supplement)

13 BY adding to
14 Article – General Provisions
15 Section 4–325.1
16 Annotated Code of Maryland
17 (2014 Volume and 2015 Supplement)

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

20 **Article – Public Safety**

21 5–133.2.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Facility” has the meaning stated in § 10–101 of the Health – General
24 Article.

25 (3) “NICS Index” means the Federal Bureau of Investigation’s National
26 Instant Criminal Background Check System.

27 (b) (1) **[A] AS SOON AS PRACTICABLE, BUT NO LATER THAN THE CLOSE**
28 **OF BUSINESS ON THE BUSINESS DAY FOLLOWING RECEIPT OF THE INFORMATION, A**
29 court shall [promptly] report information required in paragraph (2) of this subsection
30 through a secure data portal approved by the Department of Public Safety and Correctional
31 Services if a court:

32 (i) determines that a person is not criminally responsible under §
33 3–110 of the Criminal Procedure Article;

34 (ii) finds that a person is incompetent to stand trial under § 3–106 of
35 the Criminal Procedure Article; or

1 (iii) finds under § 13–201(c) or § 13–705 of the Estates and Trust
2 Article that a person should be under the protection of a guardian, except for cases in which
3 the appointment of a guardian is solely a result of a physical disability.

4 (2) On a finding or determination under paragraph (1) of this subsection,
5 the following information shall be reported to the NICS Index:

6 (i) the name and identifying information of the person; and

7 (ii) the date of the determination or finding.

8 (c) (1) **[A] AS SOON AS PRACTICABLE, BUT NO LATER THAN THE CLOSE**
9 **OF BUSINESS ON THE BUSINESS DAY FOLLOWING RECEIPT OF THE INFORMATION, A**
10 facility shall report information required in paragraph (2) of this subsection regarding a
11 person admitted to the facility under § 10–609 of the Health – General Article or committed
12 to the facility under Title 10, Subtitle 6, Part III of the Health – General Article to the NICS
13 Index through a secure data portal approved by the Department of Public Safety and
14 Correctional Services, if:

15 (i) the person has been admitted to a facility for 30 consecutive days
16 or more; or

17 (ii) the person has been involuntarily committed to a facility.

18 (2) On admission to a facility the following information shall be reported to
19 the NICS Index:

20 (i) the name and identifying information of the person admitted or
21 committed;

22 (ii) the date the person was admitted or committed to the facility;
23 and

24 (iii) the name of the facility to which the person was admitted or
25 committed.

26 **5–147.**

27 **(A) IN THIS SECTION, “PETITIONER” MEANS A PERSON WHO HAS BEEN**
28 **GRANTED A CURRENT, NON EX PARTE PEACE ORDER UNDER TITLE 3, SUBTITLE 15**
29 **OF THE COURTS ARTICLE OR A CURRENT, NON EX PARTE PROTECTIVE ORDER**
30 **UNDER § 4–506 OF THE FAMILY LAW ARTICLE BY A COURT AGAINST A LEGAL OWNER**
31 **OF A FIREARM.**

1 **(B) BEFORE A LAW ENFORCEMENT AGENCY RETURNS A PRIVATELY OWNED**
2 **FIREARM TO AN INDIVIDUAL, THE LAW ENFORCEMENT AGENCY SHALL:**

3 **(1) CONFIRM THAT THE INDIVIDUAL TO WHOM THE FIREARM WILL BE**
4 **RETURNED IS THE LEGAL OWNER OF THE FIREARM OR AN AUTHORIZED**
5 **REPRESENTATIVE OF THAT INDIVIDUAL;**

6 **(2) CONFIRM THAT THE LEGAL OWNER OF THE FIREARM OR THE**
7 **AUTHORIZED REPRESENTATIVE OF THE LEGAL OWNER OF THE FIREARM IS**
8 **ELIGIBLE TO POSSESS A FIREARM UNDER STATE AND FEDERAL LAW;**

9 **(3) IF APPLICABLE, ENSURE THAT THE REQUIREMENTS OF**
10 **SUBSECTION (C) OF THIS SECTION ARE MET;**

11 **(4) ENSURE THAT THE FIREARM IS NOT REQUIRED TO BE HELD IN**
12 **CUSTODY OR OTHERWISE PROHIBITED FROM BEING RELEASED; AND**

13 **(5) ENSURE THAT AT LEAST 24 HOURS HAVE ELAPSED FROM THE**
14 **TIME THAT THE FIREARM WAS OBTAINED BY LAW ENFORCEMENT.**

15 **(C) (1) (I) EACH LAW ENFORCEMENT AGENCY SHALL DEVELOP A**
16 **NOTIFICATION PROTOCOL THAT ALLOWS A PETITIONER TO USE AN INCIDENT**
17 **NUMBER OR CASE NUMBER TO REQUEST TO BE NOTIFIED WHEN A LAW**
18 **ENFORCEMENT AGENCY RETURNS A PRIVATELY OWNED FIREARM TO THE LEGAL**
19 **OWNER OF THE FIREARM OR TO AN AUTHORIZED REPRESENTATIVE OF THAT**
20 **INDIVIDUAL.**

21 **(II) NOTIFICATION MAY BE MADE VIA TELEPHONE, E-MAIL,**
22 **TEXT MESSAGE, OR ANOTHER METHOD THAT ALLOWS NOTIFICATION TO BE**
23 **PROVIDED WITHOUT UNNECESSARY DELAY.**

24 **(2) IF A PETITIONER HAS REQUESTED TO BE NOTIFIED UNDER**
25 **PARAGRAPH (1) OF THIS SUBSECTION, A LAW ENFORCEMENT AGENCY SHALL:**

26 **(I) PROVIDE NOTICE TO THE PETITIONER IF THE LAW**
27 **ENFORCEMENT AGENCY INTENDS TO RETURN A PRIVATELY OWNED FIREARM TO**
28 **THE LEGAL OWNER OF THE FIREARM OR TO AN AUTHORIZED REPRESENTATIVE OF**
29 **THAT INDIVIDUAL; AND**

30 **(II) HOLD THE FIREARM IN CUSTODY FOR 72 HOURS FROM THE**
31 **TIME NOTIFICATION HAS BEEN PROVIDED TO THE PETITIONER.**

1 4-325.1.

2 A CUSTODIAN SHALL DENY INSPECTION OF RECORDS RELATING TO A
3 REQUEST MADE BY A PETITIONER TO BE NOTIFIED WHEN A LAW ENFORCEMENT
4 AGENCY RETURNS A PRIVATELY OWNED FIREARM TO THE LEGAL OWNER OF THE
5 FIREARM OR TO AN AUTHORIZED REPRESENTATIVE OF THAT INDIVIDUAL UNDER §
6 5-147 OF THE PUBLIC SAFETY ARTICLE.

7 SECTION 2. AND BE IT FURTHER ENACTED, That:

8 (a) On or before July 1, 2017, the Department of Health and Mental Hygiene shall
9 electronically enter into the National Instant Criminal Background Check System the
10 information required under § 5-133.2(c)(2) of the Public Safety Article regarding each
11 person who has been admitted to a public facility for 30 consecutive days or more and each
12 person who has been involuntarily committed to a public facility during the period from
13 January 1, 1996, to January 1, 2016, if the information has not already been entered into
14 the system; and

15 (b) The Governor or Secretary of Health and Mental Hygiene may extend the time
16 for completion of the data entry under subsection (a) of this section for a period not to exceed
17 60 days for good cause shown.

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2016.