

SENATE BILL 727

E2
HB 1001/16 – JUD

7lr0318
CF HB 1424

By: **Senators Smith, Astle, Feldman, Ferguson, Guzzone, Kagan, Kelley, King, Lee, Madaleno, Manno, Muse, Peters, Pinsky, Ramirez, Robinson, Rosapepe, Young, and Zucker**

Introduced and read first time: February 3, 2017
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 31, 2017

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Firearms – ~~Transfer~~ Notification**

3 FOR the purpose of requiring a State’s Attorney to notify the court at a certain time that a
4 conviction prohibits a person from possessing a certain firearm under certain
5 provisions of law; requiring a court to inform a person convicted of a certain offense
6 that the person is prohibited from possessing a certain firearm under certain
7 provisions of law; ~~requiring the court to advise the person that certain proof must be~~
8 ~~provided to the Department of Public Safety and Correctional Services that certain~~
9 ~~firearms owned by the person or in the person’s possession have been transferred~~
10 ~~from the person’s possession; providing for the procedure to transfer certain~~
11 ~~firearms; requiring a person accepting a transferred firearm to issue a certain notice~~
12 ~~or proof of transfers; requiring a person who is subject to a certain order to file certain~~
13 ~~proof with the Department of Public Safety and Correctional Services or attest~~
14 ~~certain facts to the Department within a certain period; authorizing the disposal of~~
15 ~~a certain firearm under certain circumstances; providing an exception for a certain~~
16 ~~person from a prohibition against carrying, transporting, or possessing a certain~~
17 ~~firearm under certain circumstances; providing that the failure to receive a certain~~
18 ~~notification is not grounds for certain relief or a defense for certain criminal~~
19 ~~violations; defining certain terms; and generally relating to firearms.~~

20 BY adding to
21 Article – Criminal Procedure
22 Section 6–234

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 Annotated Code of Maryland
2 (2008 Replacement Volume and 2016 Supplement)

3 ~~BY adding to~~
4 ~~Article – Public Safety~~
5 ~~Section 5–133(f)~~
6 ~~Annotated Code of Maryland~~
7 ~~(2011 Replacement Volume and 2016 Supplement)~~

8 ~~BY repealing and reenacting, with amendments,~~
9 ~~Article – Public Safety~~
10 ~~Section 5–205(e)~~
11 ~~Annotated Code of Maryland~~
12 ~~(2011 Replacement Volume and 2016 Supplement)~~

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

15 **Article – Criminal Procedure**

16 **6–234.**

17 (A) IN THIS SECTION, “CONVICTED OF A DISQUALIFYING CRIME” HAS THE
18 MEANING STATED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE.

19 ~~(3) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN §~~
20 ~~5–101 OF THE PUBLIC SAFETY ARTICLE.~~

21 (B) (1) THE BEFORE A DEFENDANT IS SENTENCED, THE STATE’S
22 ATTORNEY SHALL NOTIFY THE COURT IF THE DEFENDANT HAS BEEN CONVICTED OF
23 A DISQUALIFYING CRIME.

24 (2) ON RECEIVING NOTICE FROM THE STATE’S ATTORNEY UNDER
25 PARAGRAPH (1) OF THIS SUBSECTION, THE COURT SHALL INFORM A PERSON
26 CONVICTED OF A DISQUALIFYING CRIME, EITHER BOTH VERBALLY OR AND IN
27 WRITING, THAT THE PERSON IS PROHIBITED FROM POSSESSING:

28 ~~(1)~~ (I) A REGULATED FIREARM UNDER § 5–133 OF THE PUBLIC
29 SAFETY ARTICLE; AND

30 ~~(2)~~ (II) A RIFLE OR SHOTGUN UNDER § 5–205 OF THE PUBLIC
31 SAFETY ARTICLE.

32 (C) ~~(1) THE COURT SHALL FURTHER ADVISE THE PERSON THAT PROOF~~
33 ~~MUST BE PROVIDED TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL~~

~~SERVICES, IN ACCORDANCE WITH THIS SECTION, THAT ALL FIREARMS OWNED BY THE PERSON OR IN THE PERSON'S POSSESSION THAT VIOLATE THE PROHIBITIONS DESCRIBED IN SUBSECTION (B) OF THIS SECTION HAVE BEEN TRANSFERRED FROM THE PERSON'S POSSESSION FAILURE OF A DEFENDANT TO RECEIVE NOTICE IN ACCORDANCE WITH THIS SECTION IS NOT:~~

~~(1) GROUND FOR APPEAL OR ANY POST CONVICTION RELIEF; OR~~

~~(2) A DEFENSE IN A PROSECUTION FOR A VIOLATION OF § 5-133 OR § 5-205 OF THE PUBLIC SAFETY ARTICLE.~~

~~(2) (i) A TRANSFER OF A FIREARM UNDER THIS SUBSECTION SHALL BE MADE WITHIN 2 DAYS AFTER THE PERSON WAS CONVICTED OF A DISQUALIFYING CRIME TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER.~~

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

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

~~(4) (i) EXCEPT AS PROVIDED IN SUBPARAGRAPH (ii) OF THIS PARAGRAPH, A WRITTEN NOTICE OF COMPLETED TRANSACTION OR PROOF OF TRANSFER DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION SHALL INCLUDE:~~

~~1. THE NAME OF THE PERSON TRANSFERRING THE FIREARM;~~

~~2. THE DATE THE FIREARM WAS TRANSFERRED; AND~~

~~3. THE SERIAL NUMBER, MAKE, AND MODEL OF THE FIREARM.~~

~~(ii) FOR A FIREARM MANUFACTURED BEFORE 1968, IDENTIFYING MARKS MAY BE SUBSTITUTED FOR THE SERIAL NUMBER REQUIRED BY THIS PARAGRAPH.~~

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

~~(1) FILE A COPY OF A WRITTEN NOTICE OF COMPLETED TRANSACTION OR PROOF OF TRANSFER WITH THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES AND ATTEST THAT ALL FIREARMS OWNED BY THE PERSON OR IN THE PERSON'S POSSESSION HAVE BEEN TRANSFERRED AND THAT THE PERSON DOES NOT OWN OR POSSESS ANY OTHER FIREARMS; OR~~

~~(2) ATTEST TO THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES THAT THE PERSON DOES NOT OWN OR POSSESS A FIREARM AND DID NOT OWN OR POSSESS A FIREARM AT THE TIME OF THE ORDER.~~

~~(E) IF A PERSON TRANSFERS A FIREARM TO A LAW ENFORCEMENT AGENCY UNDER THIS SECTION, THE AGENCY MAY DISPOSE OF THE FIREARM.~~

~~Article — Public Safety~~

~~5-133.~~

~~(F) THIS SECTION DOES NOT APPLY TO THE CARRYING OR TRANSPORTING OF A REGULATED FIREARM BY A PERSON WHO IS PROHIBITED FROM POSSESSING THE REGULATED FIREARM BECAUSE THE PERSON HAS BEEN CONVICTED OF A DISQUALIFYING CRIME, OR BY THAT PERSON'S REPRESENTATIVE, IF:~~

~~(1) THE FIREARM IS UNLOADED;~~

~~(2) IT IS WITHIN 2 DAYS AFTER THE PERSON WAS CONVICTED OF A DISQUALIFYING CRIME;~~

~~(3) THE PERSON OR THE PERSON'S REPRESENTATIVE HAS NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER FOR THE PURPOSE OF TRANSFERRING THE FIREARM TO THE OFFICIAL OR DEALER; AND~~

~~(4) THE PERSON OR THE PERSON'S REPRESENTATIVE TRANSPORTS THE FIREARM DIRECTLY TO THE STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR FEDERALLY LICENSED FIREARMS DEALER.~~

~~5-205.~~

~~(e) This section does not apply to:~~

1 ~~(1) a person transporting a rifle or shotgun if the person is carrying a civil~~
2 ~~protective order requiring the surrender of the rifle or shotgun and:~~

3 ~~[(1)] (I) the rifle or shotgun is unloaded;~~

4 ~~[(2)] (II) the person has notified the law enforcement unit, barracks, or~~
5 ~~station that the rifle or shotgun is being transported in accordance with the civil protective~~
6 ~~order; and~~

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

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

13 ~~(I) THE RIFLE OR SHOTGUN IS UNLOADED;~~

14 ~~(II) IT IS WITHIN 2 DAYS AFTER THE PERSON WAS CONVICTED~~
15 ~~OF A DISQUALIFYING CRIME;~~

16 ~~(III) THE PERSON OR THE PERSON'S REPRESENTATIVE HAS~~
17 ~~NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE RIFLE OR~~
18 ~~SHOTGUN IS BEING TRANSPORTED TO A STATE OR LOCAL LAW ENFORCEMENT~~
19 ~~OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER FOR THE PURPOSE OF~~
20 ~~TRANSFERRING THE RIFLE OR SHOTGUN TO THE OFFICIAL OR DEALER; AND~~

21 ~~(IV) THE PERSON OR THE PERSON'S REPRESENTATIVE~~
22 ~~TRANSPORTS THE RIFLE OR SHOTGUN DIRECTLY TO THE STATE OR LOCAL LAW~~
23 ~~ENFORCEMENT OFFICIAL OR FEDERALLY LICENSED FIREARMS DEALER.~~

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2017.