

SENATE BILL 852

E1
SB 35/20 – JPR

EMERGENCY BILL

1lr2181

By: **Senators Hough, Bailey, Carozza, Cassilly, Corderman, Eckardt, Edwards, Gallion, Hershey, Jennings, Ready, Salling, Simonaire, and West**

Introduced and read first time: February 9, 2021

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Penalties and Procedures**
3 **(Violent Firearms Offender Act of 2021)**

4 FOR the purpose of requiring the Commissioner of Correction to provide a certain inmate
5 with a certain reentry kit and assistance in obtaining Medicaid benefits under
6 certain circumstances; expanding the types of cases in which the State may appeal
7 from a decision of a trial court under certain circumstances; authorizing a court to
8 release a defendant charged with a certain crime on certain terms or conditions or to
9 order the defendant remanded to custody pending a certain appeal; establishing and
10 altering certain penalties; prohibiting a District Court commissioner from
11 authorizing the pretrial release of a certain defendant who has been charged with a
12 certain offense and who is on pretrial release under certain circumstances;
13 prohibiting a dealer or other person from selling, renting, loaning, or transferring a
14 regulated firearm to a purchaser, lessee, borrower, or transferee if the dealer or other
15 person has actual knowledge that the purchaser, lessee, borrower, or transferee
16 intends to use the regulated firearm for a certain purpose; establishing that a person
17 convicted of a certain offense is not prohibited from participating in certain
18 treatment; requiring a State's Attorney to provide certain notice to a criminal
19 defendant or the defendant's counsel under certain circumstances; altering certain
20 definitions and defining certain terms; making this Act an emergency measure; and
21 generally relating to firearms and violent crimes.

22 BY renumbering

23 Article – Criminal Law
24 Section 7–104(h) through (j), respectively
25 to be Section 7–104(i) through (k), respectively
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2020 Supplement)

28 BY renumbering

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Article – Public Safety
2 Section 5–134(c) and (d), respectively
3 to be Section 5–134(d) and (e), respectively
4 Annotated Code of Maryland
5 (2018 Replacement Volume and 2020 Supplement)
- 6 BY repealing and reenacting, without amendments,
7 Article – Correctional Services
8 Section 6–101(a)
9 Annotated Code of Maryland
10 (2017 Replacement Volume and 2020 Supplement)
- 11 BY repealing and reenacting, with amendments,
12 Article – Correctional Services
13 Section 6–101(m)
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2020 Supplement)
- 16 BY adding to
17 Article – Correctional Services
18 Section 9–609.2
19 Annotated Code of Maryland
20 (2017 Replacement Volume and 2020 Supplement)
- 21 BY repealing and reenacting, with amendments,
22 Article – Courts and Judicial Proceedings
23 Section 12–302(c)(4)
24 Annotated Code of Maryland
25 (2020 Replacement Volume)
- 26 BY repealing and reenacting, with amendments,
27 Article – Criminal Law
28 Section 4–204, 4–306(b), 4–404, 7–104(g), and 14–101(a)
29 Annotated Code of Maryland
30 (2012 Replacement Volume and 2020 Supplement)
- 31 BY adding to
32 Article – Criminal Law
33 Section 7–104(h)
34 Annotated Code of Maryland
35 (2012 Replacement Volume and 2020 Supplement)
- 36 BY repealing and reenacting, with amendments,
37 Article – Criminal Law
38 Section 7–104(j)
39 Annotated Code of Maryland
40 (2012 Replacement Volume and 2020 Supplement)

1 (As enacted by Section 1 of this Act)

2 BY repealing and reenacting, without amendments,
3 Article – Criminal Procedure
4 Section 5–202(c)(1) and (d)(1)
5 Annotated Code of Maryland
6 (2018 Replacement Volume and 2020 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article – Criminal Procedure
9 Section 5–202(f)
10 Annotated Code of Maryland
11 (2018 Replacement Volume and 2020 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Public Safety
14 Section 5–133(b)
15 Annotated Code of Maryland
16 (2018 Replacement Volume and 2020 Supplement)

17 BY repealing and reenacting, without amendments,
18 Article – Public Safety
19 Section 5–134(b)
20 Annotated Code of Maryland
21 (2018 Replacement Volume and 2020 Supplement)

22 BY adding to
23 Article – Public Safety
24 Section 5–134(c)
25 Annotated Code of Maryland
26 (2018 Replacement Volume and 2020 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
28 That Section(s) 7–104(h) through (j), respectively, of Article – Criminal Law of the
29 Annotated Code of Maryland be renumbered to be Section(s) 7–104(i) through (k),
30 respectively.

31 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–134(c) and (d),
32 respectively, of Article – Public Safety of the Annotated Code of Maryland be renumbered
33 to be Section(s) 5–134(d) and (e), respectively.

34 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
35 as follows:

36 **Article – Correctional Services**

37 6–101.

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

2 (m) "Technical violation" means a violation of a condition of probation, parole, or
3 mandatory supervision that does not involve:

4 (1) an arrest or a summons issued by a commissioner on a statement of
5 charges filed by a law enforcement officer;

6 (2) a violation of a criminal prohibition other than a minor traffic offense;

7 (3) a violation of a no-contact or stay-away order; [or]

8 (4) absconding; OR

9 (5) USE OR POSSESSION OF A FIREARM.

10 **9-609.2.**

11 **BEFORE RELEASE OF AN INMATE FROM A STATE CORRECTIONAL FACILITY,**
12 **THE COMMISSIONER OF CORRECTION SHALL PROVIDE THE INMATE WITH:**

13 (1) A REENTRY KIT, INCLUDING:

14 (I) AT LEAST 1 WEEK OF SUPPLIES FOR BASIC HUMAN NEEDS,
15 INCLUDING TOILETRIES AND CLOTHING;

16 (II) THE IDENTIFICATION CARD REQUIRED TO BE ISSUED
17 UNDER § 9-609.1 OF THIS SUBTITLE;

18 (III) 1. CONTACT INFORMATION FOR ENTITIES THAT
19 SPECIALIZE IN PROVIDING REENTRY SERVICES, HOUSING ASSISTANCE, SUBSTANCE
20 USE DISORDER TREATMENT, AND MENTAL HEALTH SERVICES; AND

21 2. IF THE INMATE IS NOT ELIGIBLE FOR MEDICAID
22 BENEFITS, CONTACT INFORMATION FOR THE MARYLAND HEALTH BENEFIT
23 EXCHANGE; AND

24 (IV) PUBLIC TRANSPORTATION INFORMATION, INCLUDING
25 LOCAL PUBLIC TRANSPORTATION SCHEDULES AND MAPS; AND

26 (2) IF THE INMATE IS ELIGIBLE FOR MEDICAID BENEFITS,
27 ASSISTANCE IN OBTAINING MEDICAID BENEFITS.

28 **Article – Courts and Judicial Proceedings**

1 12-302.

2 (c) (4) (i) [In a case involving] **THIS PARAGRAPH APPLIES IN A CASE:**

3 1. **INVOLVING** a crime of violence as defined in § 14-101 of
4 the Criminal Law Article[, and in cases under];

5 2. **UNDER** §§ 5-602 through 5-609 and §§ 5-612 through
6 5-614 of the Criminal Law Article[.];

7 3. **UNDER §§ 5-621 AND 5-622 OF THE CRIMINAL LAW**
8 **ARTICLE; AND**

9 4. **UNDER §§ 5-133, 5-133.1, 5-134, 5-136, 5-138,**
10 **5-140, 5-141, 5-142, 5-205, AND 5-206 OF THE PUBLIC SAFETY ARTICLE.**

11 **(II) FOR CASES LISTED IN SUBPARAGRAPH (I) OF THIS**
12 **PARAGRAPH**, the State may appeal from a decision of a trial court that excludes evidence
13 offered by the State or requires the return of property alleged to have been seized in
14 violation of the Constitution of the United States, the Maryland Constitution, or the
15 Maryland Declaration of Rights.

16 [(ii)] **(III)** The appeal shall be made before jeopardy attaches to the
17 defendant. However, in all cases the appeal shall be taken no more than 15 days after the
18 decision has been rendered and shall be diligently prosecuted.

19 [(iii)] **(IV)** Before taking the appeal, the State shall certify to the
20 court that the appeal is not taken for purposes of delay and that the evidence excluded or
21 the property required to be returned is substantial proof of a material fact in the proceeding.
22 The appeal shall be heard and the decision rendered within 120 days of the time that the
23 record on appeal is filed in the appellate court. Otherwise, the decision of the trial court
24 shall be final.

25 [(iv)] **(V)** Except in a homicide case, if the State appeals on the basis
26 of this paragraph, and if on final appeal the decision of the trial court is affirmed, the
27 charges against the defendant shall be dismissed in the case from which the appeal was
28 taken. In that case, the State may not prosecute the defendant on those specific charges or
29 on any other related charges arising out of the same incident.

30 [(v)] **(VI)** 1. Except as provided in subsubparagraph 2 of this
31 subparagraph, pending the prosecution and determination of an appeal taken under this
32 paragraph or paragraph (2) of this subsection, the defendant shall be released on personal
33 recognizance bail. If the defendant fails to appear as required by the terms of the
34 recognizance bail, the trial court shall subject the defendant to the penalties provided in §
35 5-211 of the Criminal Procedure Article.

1 (ii) The court may not impose less than the minimum sentence of 5
2 years and, except as otherwise provided in § 4–305 of the Correctional Services Article, the
3 person is not eligible for parole in less than 5 years.

4 (2) For each subsequent violation, the sentence shall be consecutive to and
5 not concurrent with any other sentence imposed for the crime of violence or felony.
6 4–306.

7 (b) (1) **IN THIS SUBSECTION, “USES” DOES NOT INCLUDE MERE**
8 **POSSESSION.**

9 (2) A person who uses an assault weapon, a rapid fire trigger activator, or
10 a magazine that has a capacity of more than 10 rounds of ammunition, in the commission
11 of a felony or a crime of violence as defined in § 5–101 of the Public Safety Article is guilty
12 of a [misdemeanor] **FELONY** and on conviction, in addition to any other sentence imposed
13 for the felony or crime of violence, shall be sentenced under this subsection.

14 [(2)] (3) (i) For a first violation, the person shall be sentenced to
15 imprisonment for not less than 5 years and not exceeding 20 years.

16 (ii) The court may not impose less than the minimum sentence of 5
17 years.

18 (iii) The mandatory minimum sentence of 5 years may not be
19 suspended.

20 (iv) Except as otherwise provided in § 4–305 of the Correctional
21 Services Article, the person is not eligible for parole in less than 5 years.

22 [(3)] (4) (i) For each subsequent violation, the person shall be
23 sentenced to imprisonment for not less than 10 years and not exceeding 20 years.

24 (ii) The court may not impose less than the minimum sentence of 10
25 years.

26 (iii) A sentence imposed under this paragraph shall be consecutive to
27 and not concurrent with any other sentence imposed for the felony or crime of violence.

28 4–404.

29 (a) A person may not use or possess a machine gun in the commission or
30 attempted commission of a **FELONY OR** crime of violence.

31 (b) A person who violates this section is guilty of a felony and on conviction is
32 subject to imprisonment not exceeding 20 years.

1 7-104.

2 (g) (1) **THIS SUBSECTION DOES NOT APPLY TO THEFT OF A FIREARM.**

3 **(2)** A person convicted of theft of property or services with a value of:

4 (i) at least \$1,500 but less than \$25,000 is guilty of a felony and:

5 1. is subject to imprisonment not exceeding 5 years or a fine
6 not exceeding \$10,000 or both; and

7 2. shall restore the property taken to the owner or pay the
8 owner the value of the property or services;

9 (ii) at least \$25,000 but less than \$100,000 is guilty of a felony and:

10 1. is subject to imprisonment not exceeding 10 years or a fine
11 not exceeding \$15,000 or both; and

12 2. shall restore the property taken to the owner or pay the
13 owner the value of the property or services; or

14 (iii) \$100,000 or more is guilty of a felony and:

15 1. is subject to imprisonment not exceeding 20 years or a fine
16 not exceeding \$25,000 or both; and

17 2. shall restore the property taken to the owner or pay the
18 owner the value of the property or services.

19 **[(2)] (3)** Except as provided in paragraph **[(3)] (4)** of this subsection, a
20 person convicted of theft of property or services with a value of at least \$100 but less than
21 \$1,500, is guilty of a misdemeanor and:

22 (i) is subject to:

23 1. for a first conviction, imprisonment not exceeding 6
24 months or a fine not exceeding \$500 or both; and

25 2. for a second or subsequent conviction, imprisonment not
26 exceeding 1 year or a fine not exceeding \$500 or both; and

27 (ii) shall restore the property taken to the owner or pay the owner
28 the value of the property or services.

29 **[(3)] (4)** A person convicted of theft of property or services with a value of

1 less than \$100 is guilty of a misdemeanor and:

2 (i) is subject to imprisonment not exceeding 90 days or a fine not
3 exceeding \$500 or both; and

4 (ii) shall restore the property taken to the owner or pay the owner
5 the value of the property or services.

6 **[(4)] (5)** Subject to paragraph **[(5)] (6)** of this subsection, a person who
7 has four or more prior convictions under this subtitle and who is convicted of theft of
8 property or services with a value of less than \$1,500 under paragraph **[(2)] (3)** of this
9 subsection is guilty of a misdemeanor and:

10 (i) is subject to imprisonment not exceeding 5 years or a fine not
11 exceeding \$5,000 or both; and

12 (ii) shall restore the property taken to the owner or pay the owner
13 the value of the property or services.

14 **[(5)] (6)** The court may not impose the penalties under paragraph **[(4)]**
15 **(5)** of this subsection unless the State's Attorney serves notice on the defendant or the
16 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least
17 15 days before trial that:

18 (i) the State will seek the penalties under paragraph **[(4)] (5)** of this
19 subsection; and

20 (ii) lists the alleged prior convictions.

21 **(H) A PERSON CONVICTED OF THEFT OF A FIREARM, INCLUDING AN**
22 **ANTIQUÉ FIREARM OR A REPLICÁ OF AN ANTIQUÉ FIREARM:**

23 **(1) IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO**
24 **IMPRISONMENT NOT EXCEEDING 5 YEARS AND A FINE NOT EXCEEDING \$10,000; AND**

25 **(2) SHALL RESTORE THE FIREARM TO THE OWNER OR PAY THE**
26 **OWNER THE VALUE OF THE FIREARM.**

27 (j) An action or prosecution for a violation of subsection **[(g)(2) or (3)] (G)(3) OR**
28 **(4)** of this section shall be commenced within 2 years after the commission of the crime.

29 14-101.

30 (a) In this section, "crime of violence" means:

31 (1) abduction;

- 1 (2) arson in the first degree;
- 2 (3) kidnapping;
- 3 (4) manslaughter, except involuntary manslaughter;
- 4 (5) mayhem;
- 5 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
6 386 of the Code;
- 7 (7) murder;
- 8 (8) rape;
- 9 (9) robbery under § 3–402 or § 3–403 of this article;
- 10 (10) carjacking;
- 11 (11) armed carjacking;
- 12 (12) sexual offense in the first degree;
- 13 (13) sexual offense in the second degree;
- 14 (14) use of a firearm in the commission of a felony [except possession with
15 intent to distribute a controlled dangerous substance under § 5–602(2) of this article,] or
16 other crime of violence;
- 17 (15) child abuse in the first degree under § 3–601 of this article;
- 18 (16) sexual abuse of a minor under § 3–602 of this article if:
 - 19 (i) the victim is under the age of 13 years and the offender is an
20 adult at the time of the offense; and
 - 21 (ii) the offense involved:
 - 22 1. vaginal intercourse, as defined in § 3–301 of this article;
 - 23 2. a sexual act, as defined in § 3–301 of this article;
 - 24 3. an act in which a part of the offender’s body penetrates,
25 however slightly, into the victim’s genital opening or anus; or
 - 26 4. the intentional touching of the victim’s or the offender’s

- 1 genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- 2 (17) home invasion under § 6–202(b) of this article;
- 3 (18) a felony offense under Title 3, Subtitle 11 of this article;
- 4 (19) an attempt to commit any of the crimes described in items (1) through
5 (18) of this subsection;
- 6 (20) continuing course of conduct with a child under § 3–315 of this article;
- 7 (21) assault in the first degree;
- 8 (22) assault with intent to murder;
- 9 (23) assault with intent to rape;
- 10 (24) assault with intent to rob;
- 11 (25) assault with intent to commit a sexual offense in the first degree; and
- 12 (26) assault with intent to commit a sexual offense in the second degree.

13 Article – Criminal Procedure

14 5–202.

15 (c) (1) A District Court commissioner may not authorize the pretrial release of
16 a defendant charged with a crime of violence if the defendant has been previously convicted:

17 (i) in this State of a crime of violence;

18 (ii) in any other jurisdiction of a crime that would be a crime of
19 violence if committed in this State; or

20 (iii) of an offense listed in subsection (f)(1) of this section.

21 (d) (1) A District Court commissioner may not authorize the pretrial release of
22 a defendant charged with committing one of the following crimes while the defendant was
23 released on bail or personal recognizance for a pending prior charge of committing one of
24 the following crimes:

25 (i) aiding, counseling, or procuring arson in the first degree under §
26 6–102 of the Criminal Law Article;

27 (ii) arson in the second degree or attempting, aiding, counseling, or
28 procuring arson in the second degree under § 6–103 of the Criminal Law Article;

- 1 (iii) burglary in the first degree under § 6–202 of the Criminal Law
 2 Article;
- 3 (iv) burglary in the second degree under § 6–203 of the Criminal Law
 4 Article;
- 5 (v) burglary in the third degree under § 6–204 of the Criminal Law
 6 Article;
- 7 (vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal
 8 Law Article;
- 9 (vii) a crime that relates to a destructive device under § 4–503 of the
 10 Criminal Law Article;
- 11 (viii) a crime that relates to a controlled dangerous substance under
 12 §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;
- 13 (ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal
 14 Law Article; and
- 15 (x) a crime of violence.

16 (f) (1) **(I)** A District Court commissioner may not authorize the pretrial
 17 release of a defendant charged with [one of the following crimes] **A CRIME LISTED IN**
 18 **SUBPARAGRAPH (II) OF THIS PARAGRAPH** if the defendant:

19 **1.** has previously been convicted of a crime of violence or [one
 20 of the following crimes:] **A CRIME LISTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH;**
 21 **OR**

22 **2. IS ON PRETRIAL RELEASE FOR A CRIME OF VIOLENCE**
 23 **OR A CRIME LISTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

24 **(II) THIS SUBSECTION APPLIES TO THE FOLLOWING CRIMES:**

25 **[(i)] 1.** wearing, carrying, or transporting a handgun under §
 26 4–203 of the Criminal Law Article;

27 **[(ii)] 2.** use of a handgun or an antique firearm in commission of a
 28 crime under § 4–204 of the Criminal Law Article;

29 **[(iii)] 3.** violating prohibitions relating to assault weapons under §
 30 4–303 of the Criminal Law Article;

1 [(iv)] 4. use of a machine gun in a crime of violence under § 4-404
2 of the Criminal Law Article;

3 [(v)] 5. use of a machine gun for an aggressive purpose under §
4 4-405 of the Criminal Law Article;

5 [(vi)] 6. use of a weapon as a separate crime under § 5-621 of the
6 Criminal Law Article;

7 [(vii)] 7. possession of a regulated firearm under § 5-133 of the
8 Public Safety Article;

9 [(viii)] 8. transporting a regulated firearm for unlawful sale or
10 trafficking under § 5-140 of the Public Safety Article; or

11 [(ix)] 9. possession of a rifle or shotgun by a person with a mental
12 disorder under § 5-205 of the Public Safety Article.

13 (2) (i) A judge may authorize the pretrial release of a defendant
14 described in paragraph (1) of this subsection on:

15 1. suitable bail;

16 2. any other conditions that will reasonably ensure that the
17 defendant will not flee or pose a danger to another person or the community; or

18 3. both bail and other conditions described under item 2 of
19 this subparagraph.

20 (ii) When a defendant described in paragraph (1) of this subsection
21 is presented to the court under Maryland Rule 4-216(f), the judge shall order the continued
22 detention of the defendant if the judge determines that neither suitable bail nor any
23 condition or combination of conditions will reasonably ensure that the defendant will not
24 flee or pose a danger to another person or the community before the trial.

25 (3) There is a rebuttable presumption that a defendant described in
26 paragraph (1) of this subsection will flee and pose a danger to another person or the
27 community.

28 Article – Public Safety

29 5-133.

30 (b) (1) Subject to § 5-133.3 of this subtitle, a person may not possess a
31 regulated firearm if the person:

1 [(1)] (I) has been convicted of a disqualifying crime;

2 [(2)] (II) has been convicted of a violation classified as a common law
3 crime and received a term of imprisonment of more than 2 years;

4 [(3)] (III) is a fugitive from justice;

5 [(4)] (IV) is a habitual drunkard;

6 [(5)] (V) is addicted to a controlled dangerous substance or is a habitual
7 user;

8 [(6)] (VI) suffers from a mental disorder as defined in § 10–101(i)(2) of the
9 Health – General Article and has a history of violent behavior against the person or
10 another;

11 [(7)] (VII) has been found incompetent to stand trial under § 3–106 of the
12 Criminal Procedure Article;

13 [(8)] (VIII) has been found not criminally responsible under § 3–110 of the
14 Criminal Procedure Article;

15 [(9)] (IX) has been voluntarily admitted for more than 30 consecutive days
16 to a facility as defined in § 10–101 of the Health – General Article;

17 [(10)] (X) has been involuntarily committed to a facility as defined in §
18 10–101 of the Health – General Article;

19 [(11)] (XI) is under the protection of a guardian appointed by a court under
20 § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the
21 appointment of a guardian is solely a result of a physical disability;

22 [(12)] (XII) except as provided in subsection (e) of this section, is a
23 respondent against whom:

24 [(i)] 1. a current non ex parte civil protective order has been
25 entered under § 4–506 of the Family Law Article; or

26 [(ii)] 2. an order for protection, as defined in § 4–508.1 of the
27 Family Law Article, has been issued by a court of another state or a Native American tribe
28 and is in effect; or

29 [(13)] (XIII) if under the age of 30 years at the time of possession, has been
30 adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if
31 committed by an adult.

1 **(2) (I) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**
2 **A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON**
3 **CONVICTION IS SUBJECT TO:**

4 **1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS**
5 **SUBPARAGRAPH, IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT**
6 **EXCEEDING \$10,000 OR BOTH; AND**

7 **2. SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,**
8 **FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT NOT EXCEEDING 10**
9 **YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

10 **(II) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE**
11 **CRIME.**

12 **(III) A PERSON CONVICTED UNDER THIS SUBSECTION IS NOT**
13 **PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §**
14 **8-507 OF THE HEALTH - GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE**
15 **SENTENCE.**

16 **(3) THE COURT MAY NOT IMPOSE THE PENALTIES UNDER**
17 **PARAGRAPH (2)(I)2 OF THIS SUBSECTION UNLESS THE STATE'S ATTORNEY SERVES**
18 **NOTICE ON THE DEFENDANT OR THE DEFENDANT'S COUNSEL BEFORE THE**
19 **ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR AT LEAST 15 DAYS**
20 **BEFORE TRIAL THAT:**

21 **(I) THE STATE WILL SEEK THE PENALTIES UNDER PARAGRAPH**
22 **(2)(I)2 OF THIS SUBSECTION; AND**

23 **(II) LISTS THE ALLEGED PRIOR CONVICTIONS.**

24 5-134.

25 (b) A dealer or other person may not sell, rent, loan, or transfer a regulated
26 firearm to a purchaser, lessee, borrower, or transferee who the dealer or other person knows
27 or has reasonable cause to believe:

28 (1) is under the age of 21 years, unless the regulated firearm is loaned to a
29 borrower who may possess the regulated firearm under § 5-133(d) of this subtitle;

30 (2) has been convicted of a disqualifying crime;

31 (3) has been convicted of a conspiracy to commit a felony;

1 (4) has been convicted of a violation classified as a common law crime and
2 received a term of imprisonment of more than 2 years;

3 (5) is a fugitive from justice;

4 (6) is a habitual drunkard;

5 (7) is addicted to a controlled dangerous substance or is a habitual user;

6 (8) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health
7 – General Article, and has a history of violent behavior against the purchaser, lessee,
8 borrower, or transferee or another, unless the purchaser, lessee, borrower, or transferee
9 possesses a physician’s certificate that the recipient is capable of possessing a regulated
10 firearm without undue danger to the purchaser, lessee, borrower, or transferee or to
11 another;

12 (9) has been confined for more than 30 consecutive days to a facility as
13 defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, borrower,
14 or transferee possesses a physician’s certificate that the recipient is capable of possessing
15 a regulated firearm without undue danger to the purchaser, lessee, borrower, or transferee
16 or to another;

17 (10) is a respondent against whom a current non ex parte civil protective
18 order has been entered under § 4–506 of the Family Law Article;

19 (11) if under the age of 30 years at the time of the transaction, has been
20 adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if
21 committed by an adult;

22 (12) is visibly under the influence of alcohol or drugs;

23 (13) is a participant in a straw purchase;

24 (14) subject to subsection (c) of this section for a transaction under this
25 subsection that is made on or after January 1, 2002, has not completed a certified firearms
26 safety training course conducted free of charge by the Police Training and Standards
27 Commission or that meets standards established by the Police Training and Standards
28 Commission under § 3–207 of this article; or

29 (15) intends to use the regulated firearm to:

30 (i) commit a crime; or

31 (ii) cause harm to the purchaser, lessee, transferee, or recipient or
32 another person.

33 **(C) (1) A DEALER OR OTHER PERSON MAY NOT SELL, RENT, LOAN, OR**

1 TRANSFER A REGULATED FIREARM TO A PURCHASER, LESSEE, BORROWER, OR
2 TRANSFEREE IF THE DEALER OR OTHER PERSON HAS ACTUAL KNOWLEDGE THAT
3 THE PURCHASER, LESSEE, BORROWER, OR TRANSFEREE INTENDS TO USE THE
4 REGULATED FIREARM TO:

5 (I) COMMIT A CRIME; OR

6 (II) CAUSE HARM TO THE PURCHASER, LESSEE, TRANSFEREE,
7 OR RECIPIENT OR ANOTHER PERSON.

8 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A
9 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10
10 YEARS.

11 (3) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

12 (4) A PERSON CONVICTED UNDER THIS SUBSECTION IS NOT
13 PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §
14 8-507 OF THE HEALTH - GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE
15 SENTENCE.

16 (5) A DEFENDANT CHARGED WITH VIOLATING THIS SUBSECTION
17 SHALL ALSO BE CHARGED WITH VIOLATING SUBSECTION (B) OF THIS SECTION.

18 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency
19 measure, is necessary for the immediate preservation of the public health or safety, has
20 been passed by a yea and nay vote supported by three-fifths of all the members elected to
21 each of the two Houses of the General Assembly, and shall take effect from the date it is
22 enacted.