

SENATE BILL 1036

E2, E4

8lr2199
CF HB 1646

By: **Senator Smith**

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Firearms – Transfer**

3 FOR the purpose of requiring a State's Attorney to serve a certain notice on a certain
4 defendant, defendant's counsel, and the court at a certain time; requiring a court to
5 inform a defendant convicted of a certain offense that the defendant is prohibited
6 from possessing a certain firearm under certain provisions of law; requiring the court
7 to order the defendant to transfer certain firearms in accordance with this Act and
8 provide proof to the court or the State's Attorney that certain firearms owned by the
9 defendant or in the defendant's possession have been transferred in accordance with
10 this Act; providing for the procedure to transfer certain firearms; requiring a person
11 accepting a transferred firearm to issue a certain proof of transfer; requiring a person
12 who is subject to a certain order to file certain proof with the court or the State's
13 Attorney or attest to certain facts to the court or the State's Attorney within a certain
14 period; authorizing the court to order a search for and removal of a certain firearm
15 under certain circumstances; requiring the court to specifically state the reasons for
16 and scope of a certain search and seizure; authorizing law enforcement agencies to
17 develop certain rules and procedures; providing exceptions for a certain person from
18 prohibitions against carrying, transporting, or possessing certain firearms under
19 certain circumstances; providing an exception for a certain firearms dealer from a
20 prohibition against possessing or receiving a certain assault weapon under certain
21 circumstances; defining certain terms; and generally relating to firearms.

22 BY adding to

23 Article – Criminal Procedure

24 Section 6–234

25 Annotated Code of Maryland

26 (2008 Replacement Volume and 2017 Supplement)

27 BY repealing and reenacting, with amendments,

28 Article – Criminal Law

29 Section 4–303

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2012 Replacement Volume and 2017 Supplement)

3 BY adding to
4 Article – Public Safety
5 Section 5–133(f)
6 Annotated Code of Maryland
7 (2011 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Public Safety
10 Section 5–205(c)
11 Annotated Code of Maryland
12 (2011 Replacement Volume and 2017 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) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) “CONVICTED OF A DISQUALIFYING CRIME” HAS THE MEANING
20 STATED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE.

21 (3) “DISQUALIFYING CRIME” HAS THE MEANING STATED IN § 5–101
22 OF THE PUBLIC SAFETY ARTICLE.

23 (4) “DOMESTICALLY RELATED CRIME” HAS THE MEANING STATED IN
24 § 6–233 OF THIS SUBTITLE.

25 (5) “FEDERALLY LICENSED FIREARM DEALER” MEANS A PERSON
26 WHO HOLDS A FEDERAL FIREARMS LICENSE ISSUED UNDER 18 U.S.C. § 9–232(A).

27 (6) “LAW ENFORCEMENT OFFICIAL” HAS THE MEANING STATED IN §
28 4–201 OF THE CRIMINAL LAW ARTICLE.

29 (7) “REGULATED FIREARM” HAS THE MEANING STATED IN § 5–101 OF
30 THE PUBLIC SAFETY ARTICLE.

31 (8) “RIFLE” HAS THE MEANING STATED IN § 4–201 OF THE CRIMINAL
32 LAW ARTICLE.

1 **(9) "SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE**
2 **CRIMINAL LAW ARTICLE.**

3 **(B) (1) WHEN A DEFENDANT HAS BEEN CHARGED WITH A DISQUALIFYING**
4 **CRIME THAT IS POTENTIALLY A DOMESTICALLY RELATED CRIME, THE STATE'S**
5 **ATTORNEY SHALL SERVE WRITTEN NOTICE ON THE DEFENDANT, THE DEFENDANT'S**
6 **COUNSEL, AND THE COURT THAT:**

7 **(I) THE DEFENDANT HAS BEEN CHARGED WITH A**
8 **DISQUALIFYING CRIME; AND**

9 **(II) UNDER STATE LAW, IT IS ILLEGAL FOR A PERSON WHO HAS**
10 **BEEN CONVICTED OF A DISQUALIFYING CRIME TO POSSESS OR OWN A REGULATED**
11 **FIREARM, A RIFLE, OR A SHOTGUN.**

12 **(2) THE STATE'S ATTORNEY SHALL SERVE THE NOTICE REQUIRED**
13 **UNDER PARAGRAPH (1) OF THIS SUBSECTION PRIOR TO TRIAL OR THE ACCEPTANCE**
14 **OF A PLEA OF GUILTY OR THE EQUIVALENT OF A PLEA OF GUILTY.**

15 **(C) ON CONVICTION OF OR PLEA OF GUILTY TO A DISQUALIFYING CRIME**
16 **THAT THE COURT DETERMINES TO BE A DOMESTICALLY RELATED CRIME, THE**
17 **COURT SHALL INFORM THE DEFENDANT, EITHER VERBALLY OR IN WRITING, THAT**
18 **THE DEFENDANT 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 **(D) THE COURT SHALL ORDER THE DEFENDANT TO:**

24 **(1) TRANSFER ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS**
25 **OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION IN ACCORDANCE**
26 **WITH THIS SECTION; AND**

27 **(2) PROVIDE PROOF TO THE COURT OR THE STATE'S ATTORNEY THAT**
28 **ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS OWNED BY THE DEFENDANT**
29 **OR IN THE DEFENDANT'S POSSESSION HAVE BEEN TRANSFERRED IN ACCORDANCE**
30 **WITH THIS SECTION.**

31 **(E) (1) A TRANSFER OF A REGULATED FIREARM, RIFLE, OR SHOTGUN**
32 **UNDER THIS SECTION SHALL BE MADE WITHIN 2 BUSINESS DAYS AFTER THE**

1 CONVICTION TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A
2 FEDERALLY LICENSED FIREARMS DEALER.

3 (2) A PERSON ORDERED TO SURRENDER A REGULATED FIREARM,
4 RIFLE, OR SHOTGUN UNDER THIS SECTION MAY DESIGNATE A REPRESENTATIVE TO
5 TRANSFER THE FIREARM TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR
6 TO A FEDERALLY LICENSED FIREARMS DEALER.

7 (3) A LAW ENFORCEMENT OFFICIAL OR FEDERALLY LICENSED
8 FIREARMS DEALER ACCEPTING A TRANSFERRED FIREARM UNDER THIS SECTION
9 SHALL ISSUE A WRITTEN PROOF OF TRANSFER TO THE PERSON TRANSFERRING THE
10 FIREARM.

11 (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
12 PARAGRAPH, A WRITTEN PROOF OF TRANSFER DESCRIBED IN PARAGRAPH (3) OF
13 THIS SUBSECTION SHALL INCLUDE:

14 1. THE NAME OF THE PERSON TRANSFERRING THE
15 FIREARM;

16 2. THE DATE THE FIREARM WAS TRANSFERRED; AND

17 3. THE SERIAL NUMBER, MAKE, AND MODEL OF THE
18 FIREARM.

19 (II) FOR A FIREARM MANUFACTURED BEFORE 1968,
20 IDENTIFYING MARKS MAY BE SUBSTITUTED FOR THE SERIAL NUMBER REQUIRED
21 UNDER THIS PARAGRAPH.

22 (F) WITHIN 5 BUSINESS DAYS AFTER BEING ORDERED TO TRANSFER A
23 REGULATED FIREARM, RIFLE, OR SHOTGUN UNDER THIS SECTION, A PERSON SHALL:

24 (1) FILE A COPY OF THE PROOF OF TRANSFER WITH THE COURT OR
25 THE STATE'S ATTORNEY AND ATTEST THAT ALL REGULATED FIREARMS, RIFLES,
26 AND SHOTGUNS OWNED BY THE PERSON OR IN THE PERSON'S POSSESSION HAVE
27 BEEN TRANSFERRED AND THAT THE PERSON DOES NOT OWN OR POSSESS ANY
28 OTHER REGULATED FIREARMS, RIFLES, OR SHOTGUNS; OR

29 (2) ATTEST TO THE COURT OR THE STATE'S ATTORNEY THAT THE
30 PERSON DOES NOT OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR
31 SHOTGUNS AND DID NOT OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR
32 SHOTGUNS AT THE TIME OF THE ORDER.

33 (G) (1) IF THE COURT, ON MOTION OF THE STATE'S ATTORNEY OR A LAW

1 ENFORCEMENT OFFICIAL, FINDS PROBABLE CAUSE TO BELIEVE THAT THE PERSON
2 HAS FAILED TO SURRENDER ONE OR MORE REGULATED FIREARMS, RIFLES, OR
3 SHOTGUNS, THE COURT MAY ORDER A SEARCH FOR AND REMOVAL OF ANY
4 REGULATED FIREARMS, RIFLES, OR SHOTGUNS AT ANY LOCATION WHERE THE
5 COURT HAS PROBABLE CAUSE TO BELIEVE THE FIREARM OR FIREARMS ARE
6 LOCATED.

7 (2) THE COURT SHALL SPECIFICALLY STATE THE REASONS FOR AND
8 SCOPE OF THE SEARCH AND SEIZURE AUTHORIZED BY THE ORDER.

9 (H) LAW ENFORCEMENT AGENCIES MAY DEVELOP RULES AND PROCEDURES
10 PERTAINING TO THE STORAGE AND DISPOSAL OF FIREARMS THAT ARE
11 SURRENDERED IN ACCORDANCE WITH THIS SECTION.

12 Article – Criminal Law

13 4–303.

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

15 (1) transport an assault weapon into the State; or

16 (2) possess, sell, offer to sell, transfer, purchase, or receive an assault
17 weapon.

18 (b) (1) A person who lawfully possessed an assault pistol before June 1, 1994,
19 and who registered the assault pistol with the Secretary of State Police before August 1,
20 1994, may:

21 (i) continue to possess and transport the assault pistol; or

22 (ii) while carrying a court order requiring the surrender of the
23 assault pistol, transport the assault pistol directly to [the] A law enforcement unit,
24 barracks, or station, **A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL, OR A**
25 **FEDERALLY LICENSED FIREARMS DEALER, AS APPLICABLE**, if the person has notified
26 [the] A law enforcement unit, barracks, or station that the person is transporting the
27 assault pistol in accordance with a court order and the assault pistol is unloaded.

28 (2) A licensed firearms dealer may continue to possess, sell, offer for sale,
29 or transfer an assault long gun or a copycat weapon that the licensed firearms dealer
30 lawfully possessed on or before October 1, 2013.

31 (3) A person who lawfully possessed, has a purchase order for, or completed
32 an application to purchase an assault long gun or a copycat weapon before October 1, 2013,
33 may:

1 (i) possess and transport the assault long gun or copycat weapon; or

2 (ii) while carrying a court order requiring the surrender of the
3 assault long gun or copycat weapon, transport the assault long gun or copycat weapon
4 directly to [the] A law enforcement unit, barracks, or station, **A STATE OR LOCAL LAW**
5 **ENFORCEMENT OFFICIAL, OR A FEDERALLY LICENSED FIREARMS DEALER, AS**
6 **APPLICABLE**, if the person has notified [the] A law enforcement unit, barracks, or station
7 that the person is transporting the assault long gun or copycat weapon in accordance with
8 a court order and the assault long gun or copycat weapon is unloaded.

9 (4) A person may transport an assault weapon to or from:

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

12 (ii) a facility or entity that manufactures or provides research and
13 development testing, analysis, or engineering for personal protective equipment or vehicle
14 protection systems.

15 **(5) A FEDERALLY LICENSED FIREARMS DEALER MAY RECEIVE AND**
16 **POSSESS AN ASSAULT WEAPON RECEIVED FROM A PERSON IN ACCORDANCE WITH A**
17 **COURT ORDER TO TRANSFER FIREARMS UNDER § 6–234 OF THE CRIMINAL**
18 **PROCEDURE ARTICLE.**

19 Article – Public Safety

20 5–133.

21 **(F) THIS SECTION DOES NOT APPLY TO THE CARRYING OR TRANSPORTING**
22 **OF A REGULATED FIREARM BY A PERSON WHO IS CARRYING A COURT ORDER**
23 **REQUIRING THE SURRENDER OF THE REGULATED FIREARM, IF:**

24 **(1) THE FIREARM IS UNLOADED;**

25 **(2) THE PERSON HAS NOTIFIED A LAW ENFORCEMENT UNIT,**
26 **BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED IN**
27 **ACCORDANCE WITH THE ORDER; AND**

28 **(3) THE PERSON TRANSPORTS THE FIREARM DIRECTLY TO A STATE**
29 **OR LOCAL LAW ENFORCEMENT OFFICIAL OR A FEDERALLY LICENSED FIREARMS**
30 **DEALER.**

31 5–205.

32 (c) 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) THE CARRYING OR TRANSPORTING OF A RIFLE OR SHOTGUN BY A**
10 **PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE**
11 **RIFLE OR SHOTGUN, IF:**

12 **(I) THE RIFLE OR SHOTGUN IS UNLOADED;**

13 **(II) THE PERSON HAS NOTIFIED A LAW ENFORCEMENT UNIT,**
14 **BARRACKS, OR STATION THAT THE RIFLE OR SHOTGUN IS BEING TRANSPORTED IN**
15 **ACCORDANCE WITH THE ORDER; AND**

16 **(III) THE PERSON TRANSPORTS THE RIFLE OR SHOTGUN**
17 **DIRECTLY TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR A FEDERALLY**
18 **LICENSED FIREARMS DEALER.**

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