

SENATE BILL 1036

E2, E4

8lr2199
CF HB 1646

By: ~~Senator Smith~~ Senators Smith, Zirkin, Kelley, Brochin, Cassilly, Hough, Lee, Muse, Ramirez, and Ready ~~Ready, Zucker, Peters, Feldman, Madaleno, Guzzone, Kagan, King, Rosapepe, Benson, Currie, and Ferguson~~

Introduced and read first time: February 5, 2018

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 12, 2018

CHAPTER _____

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 and is ordered to
7 transfer certain firearms in accordance with this Act; requiring the court to order
8 the defendant to transfer certain firearms in accordance with this Act ~~and provide~~
9 ~~proof to the court or the State's Attorney that certain firearms owned by the~~
10 ~~defendant or in the defendant's possession have been transferred in accordance with~~
11 ~~this Act~~; providing for the procedure to transfer certain firearms; requiring a person
12 accepting a transferred firearm to issue a certain proof of transfer; ~~requiring a person~~
13 ~~who is subject to a certain order to file certain proof with the court or the State's~~
14 ~~Attorney or attest to certain facts to the court or the State's Attorney within a certain~~
15 ~~period~~; authorizing the court to order a search for and removal of a certain firearm
16 under certain circumstances; ~~requiring the court to specifically state the reasons for~~
17 ~~and scope of a certain search and seizure~~; authorizing law enforcement agencies to
18 develop certain rules and procedures; requiring the Maryland Police Training and
19 Standards Commission to develop and maintain a certain curriculum relating to
20 certain investigations; providing exceptions for a certain person from prohibitions
21 against carrying, transporting, or possessing certain firearms under certain
22 circumstances; providing an exception for a certain firearms dealer from a

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 prohibition against possessing or receiving a certain assault weapon under certain
2 circumstances; defining certain terms; and generally relating to firearms.

3 BY adding to
4 Article – Criminal Procedure
5 Section 6–234
6 Annotated Code of Maryland
7 (2008 Replacement Volume and 2017 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Law
10 Section 4–303
11 Annotated Code of Maryland
12 (2012 Replacement Volume and 2017 Supplement)

13 BY adding to
14 Article – Public Safety
15 Section ~~3–207(i)~~ and 5–133(f)
16 Annotated Code of Maryland
17 (2011 Replacement Volume and 2017 Supplement)

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety
20 Section 5–205(c)
21 Annotated Code of Maryland
22 (2011 Replacement Volume and 2017 Supplement)

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

25 **Article – Criminal Procedure**

26 **6–234.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

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

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

33 **(4) “DOMESTICALLY RELATED CRIME” HAS THE MEANING STATED IN**
34 **§ 6–233 OF THIS SUBTITLE.**

1 (5) "FEDERALLY LICENSED FIREARM DEALER" MEANS A PERSON
2 WHO HOLDS A FEDERAL FIREARMS LICENSE ISSUED UNDER 18 U.S.C. § 9-232(A).

3 (6) "LAW ENFORCEMENT AGENCY" HAS THE MEANING STATED IN §
4 3-201 OF THE PUBLIC SAFETY ARTICLE.

5 ~~(6)~~ (7) "LAW ENFORCEMENT OFFICIAL" HAS THE MEANING STATED
6 IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

7 ~~(7)~~ (8) "REGULATED FIREARM" HAS THE MEANING STATED IN §
8 5-101 OF THE PUBLIC SAFETY ARTICLE.

9 ~~(8)~~ (9) "RIFLE" HAS THE MEANING STATED IN § 4-201 OF THE
10 CRIMINAL LAW ARTICLE.

11 ~~(9)~~ (10) "SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE
12 CRIMINAL LAW ARTICLE.

13 (B) (1) WHEN A DEFENDANT HAS BEEN CHARGED WITH A DISQUALIFYING
14 CRIME ~~THAT IS POTENTIALLY~~ AND THE UNDERLYING FACTS OF THAT CRIME WOULD
15 SUPPORT A FINDING BY THE COURT UNDER § 6-233 OF THIS SUBTITLE THAT THE
16 CRIME IS A DOMESTICALLY RELATED CRIME, THE STATE'S ATTORNEY SHALL SERVE
17 WRITTEN NOTICE ON THE DEFENDANT, THE DEFENDANT'S COUNSEL, AND THE
18 COURT THAT:

19 (I) THE DEFENDANT HAS BEEN CHARGED WITH A
20 DISQUALIFYING CRIME; AND

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

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

27 (C) ~~ON CONVICTION OF OR PLEA OF GUILTY~~ WHEN A DEFENDANT IS
28 CONVICTED OF OR PLEADS GUILTY TO A DISQUALIFYING CRIME THAT THE COURT
29 DETERMINES TO BE A DOMESTICALLY RELATED CRIME, THE COURT SHALL INFORM
30 THE DEFENDANT, EITHER BOTH VERBALLY OR AND IN WRITING, A WRITTEN NOTICE
31 TO BE SIGNED BY THE DEFENDANT, THAT THE DEFENDANT IS PROHIBITED FROM
32 POSSESSING:

1 (1) PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER §
2 5-133 OF THE PUBLIC SAFETY ARTICLE; ~~AND~~

3 (2) PROHIBITED FROM POSSESSING A RIFLE OR SHOTGUN UNDER §
4 5-205 OF THE PUBLIC SAFETY ARTICLE; ~~AND~~

5 (3) ORDERED TO TRANSFER ALL REGULATED FIREARMS, RIFLES, AND
6 SHOTGUNS OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION IN
7 ACCORDANCE WITH THIS SECTION.

8 (D) THE COURT SHALL ORDER THE DEFENDANT TO:

9 ~~(1)~~ TRANSFER ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS
10 OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION IN ACCORDANCE
11 WITH THIS SECTION; ~~AND~~

12 ~~(2) PROVIDE PROOF TO THE COURT OR THE STATE'S ATTORNEY THAT~~
13 ~~ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS OWNED BY THE DEFENDANT~~
14 ~~OR IN THE DEFENDANT'S POSSESSION HAVE BEEN TRANSFERRED IN ACCORDANCE~~
15 ~~WITH THIS SECTION.~~

16 (E) (1) A TRANSFER OF A REGULATED FIREARM, RIFLE, OR SHOTGUN
17 UNDER THIS SECTION SHALL BE MADE WITHIN 2 BUSINESS DAYS AFTER THE
18 CONVICTION TO A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR TO A
19 FEDERALLY LICENSED FIREARMS DEALER.

20 (2) A PERSON ORDERED TO SURRENDER A REGULATED FIREARM,
21 RIFLE, OR SHOTGUN UNDER THIS SECTION MAY DESIGNATE A REPRESENTATIVE TO
22 TRANSFER THE FIREARM TO A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~
23 AGENCY OR TO A FEDERALLY LICENSED FIREARMS DEALER.

24 (3) A LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR FEDERALLY
25 LICENSED FIREARMS DEALER ACCEPTING A TRANSFERRED FIREARM UNDER THIS
26 SECTION SHALL ISSUE A WRITTEN PROOF OF TRANSFER TO THE PERSON
27 TRANSFERRING THE FIREARM.

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

31 1. THE NAME OF THE PERSON TRANSFERRING THE
32 FIREARM;

33 2. THE DATE THE FIREARM WAS TRANSFERRED; AND

1 3. THE SERIAL NUMBER, MAKE, AND MODEL OF THE
2 FIREARM.

3 (II) FOR A FIREARM MANUFACTURED BEFORE 1968,
4 IDENTIFYING MARKS MAY BE SUBSTITUTED FOR THE SERIAL NUMBER REQUIRED
5 UNDER THIS PARAGRAPH.

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

8 ~~(1) FILE A COPY OF THE PROOF OF TRANSFER WITH THE COURT OR
9 THE STATE'S ATTORNEY AND ATTEST THAT ALL REGULATED FIREARMS, RIFLES,
10 AND SHOTGUNS OWNED BY THE PERSON OR IN THE PERSON'S POSSESSION HAVE
11 BEEN TRANSFERRED AND THAT THE PERSON DOES NOT OWN OR POSSESS ANY
12 OTHER REGULATED FIREARMS, RIFLES, OR SHOTGUNS; OR~~

13 ~~(2) ATTEST TO THE COURT OR THE STATE'S ATTORNEY THAT THE
14 PERSON DOES NOT OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR
15 SHOTGUNS AND DID NOT OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR
16 SHOTGUNS AT THE TIME OF THE ORDER.~~

17 ~~(G) (1) IF THE COURT, ON MOTION OF THE STATE'S ATTORNEY OR A LAW
18 ENFORCEMENT OFFICIAL, FINDS PROBABLE CAUSE TO BELIEVE THAT THE PERSON
19 HAS FAILED TO SURRENDER ONE OR MORE REGULATED FIREARMS, RIFLES, OR
20 SHOTGUNS, THE COURT MAY ORDER A SEARCH FOR AND REMOVAL OF ANY
21 REGULATED FIREARMS, RIFLES, OR SHOTGUNS AT ANY LOCATION WHERE THE
22 COURT HAS PROBABLE CAUSE TO BELIEVE THE FIREARM OR FIREARMS ARE
23 LOCATED.~~

24 ~~(2) THE COURT SHALL SPECIFICALLY STATE THE REASONS FOR AND
25 SCOPE OF THE SEARCH AND SEIZURE AUTHORIZED BY THE ORDER.~~

26 (F) ON APPLICATION BY THE STATE'S ATTORNEY OR A LAW ENFORCEMENT
27 OFFICIAL BASED ON PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS FAILED
28 TO SURRENDER ONE OR MORE REGULATED FIREARMS, RIFLES, OR SHOTGUNS, IN
29 ACCORDANCE WITH THIS SECTION, THE COURT MAY AUTHORIZE THE EXECUTION OF
30 A SEARCH WARRANT FOR THE REMOVAL OF ANY REGULATED FIREARM, RIFLE, OR
31 SHOTGUN AT ANY LOCATION WHERE THE COURT HAS PROBABLE CAUSE TO BELIEVE
32 A REGULATED FIREARM, RIFLE, OR SHOTGUN OWNED OR POSSESSED BY THE
33 PERSON IS LOCATED.

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

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

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

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

11 Article – Public Safety

12 3–207.

13 (I) THE COMMISSION, IN CONSULTATION WITH THE MARYLAND STATE’S
14 ATTORNEYS’ ASSOCIATION, SHALL DEVELOP AND MAINTAIN A UNIFORM,
15 STATEWIDE TRAINING AND CERTIFICATION CURRICULUM TO ENSURE USE OF BEST
16 PRACTICES IN INVESTIGATING COMPLIANCE WITH COURT ORDERS TO SURRENDER
17 REGULATED FIREARMS, RIFLES, AND SHOTGUNS UNDER § 6–234 OF THE CRIMINAL
18 PROCEDURE ARTICLE.

19 5–133.

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

23 (1) THE FIREARM IS UNLOADED;

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

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

30 5–205.

31 (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~~ AGENCY OR A**
18 **FEDERALLY LICENSED FIREARMS DEALER.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.