

SENATE BILL 943

E2
SB 530/15 – JPR

6lr1468
CF HB 1001

By: **Senators Raskin, Benson, Feldman, Guzzone, Kelley, King, Lee, Madaleno, Manno, Muse, Peters, Rosapepe, Waugh, and Young**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2016

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure – Firearms – Transfer**

3 FOR the purpose of providing an exception for a certain person from the prohibition against
4 carrying or transporting a certain firearm under certain circumstances; requiring a
5 court to inform a person convicted of a certain offense that the person is prohibited
6 from possessing a certain firearm under certain provisions of law; requiring the court
7 to advise the person that certain proof must be provided to the ~~court~~ Department of
8 Public Safety and Correctional Services that certain firearms ~~owned by the person~~
9 ~~or~~ in the person's possession have been transferred from the person's possession;
10 providing for the procedure to transfer certain firearms; requiring a person accepting
11 a transferred firearm to issue a certain notice or proof of transfers; requiring a person
12 who is subject to a certain order to file certain proof with the ~~court~~ Department of
13 Public Safety and Correctional Services or attest certain facts to the ~~court~~
14 Department of Public Safety and Correctional Services within a certain period;
15 authorizing the disposal of a certain firearm under certain circumstances; defining
16 certain terms; and generally relating to firearms.

17 BY repealing and reenacting, with amendments,

18 Article – Criminal Law

19 Section 4–203(b) and 4–302

20 Annotated Code of Maryland

21 (2012 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, without amendments,

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 Article – Criminal Procedure
2 Section 6–233
3 Annotated Code of Maryland
4 (2008 Replacement Volume and 2015 Supplement)

5 BY adding to
6 Article – Criminal Procedure
7 Section 6–234
8 Annotated Code of Maryland
9 (2008 Replacement Volume and 2015 Supplement)

10 BY adding to
11 Article – Public Safety
12 Section 5–133(f)
13 Annotated Code of Maryland
14 (2011 Replacement Volume and 2015 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article – Public Safety
17 Section 5–205(c)
18 Annotated Code of Maryland
19 (2011 Replacement Volume and 2015 Supplement)

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

22 **Article – Criminal Law**

23 4–203.

24 (b) This section does not prohibit:

25 (1) the wearing, carrying, or transporting of a handgun by a person who is
26 authorized at the time and under the circumstances to wear, carry, or transport the
27 handgun as part of the person’s official equipment, and is:

28 (i) a law enforcement official of the United States, the State, or a
29 county or city of the State;

30 (ii) a member of the armed forces of the United States or of the
31 National Guard on duty or traveling to or from duty;

32 (iii) a law enforcement official of another state or subdivision of
33 another state temporarily in this State on official business;

34 (iv) a correctional officer or warden of a correctional facility in the
35 State;

1 (v) a sheriff or full-time assistant or deputy sheriff of the State; or

2 (vi) a temporary or part-time sheriff's deputy;

3 (2) the wearing, carrying, or transporting of a handgun, in compliance with
4 any limitations imposed under § 5-307 of the Public Safety Article, by a person to whom a
5 permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3
6 of the Public Safety Article;

7 (3) the carrying of a handgun on the person or in a vehicle while the person
8 is transporting the handgun to or from the place of legal purchase or sale, or to or from a
9 bona fide repair shop, or between bona fide residences of the person, or between the bona
10 fide residence and place of business of the person, if the business is operated and owned
11 substantially by the person if each handgun is unloaded and carried in an enclosed case or
12 an enclosed holster;

13 (4) the wearing, carrying, or transporting by a person of a handgun used in
14 connection with an organized military activity, a target shoot, formal or informal target
15 practice, sport shooting event, hunting, a Department of Natural Resources-sponsored
16 firearms and hunter safety class, trapping, or a dog obedience training class or show, while
17 the person is engaged in, on the way to, or returning from that activity if each handgun is
18 unloaded and carried in an enclosed case or an enclosed holster;

19 (5) the moving by a bona fide gun collector of part or all of the collector's
20 gun collection from place to place for public or private exhibition if each handgun is
21 unloaded and carried in an enclosed case or an enclosed holster;

22 (6) the wearing, carrying, or transporting of a handgun by a person on real
23 estate that the person owns or leases or where the person resides or within the confines of
24 a business establishment that the person owns or leases;

25 (7) the wearing, carrying, or transporting of a handgun by a supervisory
26 employee;

27 (i) in the course of employment;

28 (ii) within the confines of the business establishment in which the
29 supervisory employee is employed; and

30 (iii) when so authorized by the owner or manager of the business
31 establishment;

32 (8) the carrying or transporting of a signal pistol or other visual distress
33 signal approved by the United States Coast Guard in a vessel on the waterways of the State
34 or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed
35 case, in a vehicle; [or]

1 (9) the wearing, carrying, or transporting of a handgun by a person who is
2 carrying a court order requiring the surrender of the handgun, if:

3 (i) the handgun is unloaded;

4 (ii) the person has notified the law enforcement unit, barracks, or
5 station that the handgun is being transported in accordance with the court order; and

6 (iii) the person transports the handgun directly to the law
7 enforcement unit, barracks, or station; OR

8 **(10) THE CARRYING OR TRANSPORTING OF A HANDGUN BY A PERSON**
9 **WHO IS PROHIBITED FROM POSSESSING A HANDGUN BECAUSE THE PERSON HAS**
10 **BEEN CONVICTED OF A FELONY OR CONVICTED OF A DISQUALIFYING CRIME, AS**
11 **DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE, IF:**

12 **(I) THE HANDGUN IS UNLOADED;**

13 **(II) IT IS WITHIN 2 BUSINESS DAYS AFTER THE CONVICTION;**

14 **(III) THE PERSON HAS NOTIFIED A LAW ENFORCEMENT UNIT,**
15 **BARRACKS, OR STATION THAT THE HANDGUN IS BEING TRANSPORTED TO A STATE**
16 **OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS**
17 **DEALER FOR THE PURPOSES OF TRANSFERRING THE FIREARM TO THE OFFICIAL OR**
18 **DEALER; AND**

19 **(IV) THE PERSON TRANSPORTS THE HANDGUN DIRECTLY TO**
20 **THE STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR FEDERALLY LICENSED**
21 **FIREARMS DEALER.**

22 4-302.

23 This subtitle does not apply to:

24 (1) if acting within the scope of official business, personnel of the United
25 States government or a unit of that government, members of the armed forces of the United
26 States or of the National Guard, law enforcement personnel of the State or a local unit in
27 the State, or a railroad police officer authorized under Title 3 of the Public Safety Article
28 or 49 U.S.C. § 28101;

29 (2) a firearm modified to render it permanently inoperative;

30 (3) possession, importation, manufacture, receipt for manufacture,
31 shipment for manufacture, storage, purchases, sales, and transport to or by a licensed
32 firearms dealer or manufacturer who is:

1 (i) providing or servicing an assault weapon or detachable magazine
2 for a law enforcement unit or for personnel exempted under item (1) of this section;

3 (ii) acting to sell or transfer an assault weapon or detachable
4 magazine to a licensed firearm dealer in another state or to an individual purchaser in
5 another state through a licensed firearms dealer; or

6 (iii) acting to return to a customer in another state an assault weapon
7 transferred to the licensed firearms dealer or manufacturer under the terms of a warranty
8 or for repair;

9 (4) organizations that are required or authorized by federal law governing
10 their specific business or activity to maintain assault weapons and applicable ammunition
11 and detachable magazines;

12 (5) the receipt of an assault weapon or detachable magazine by inheritance,
13 and possession of the inherited assault weapon or detachable magazine, if the decedent
14 lawfully possessed the assault weapon or detachable magazine and the person inheriting
15 the assault weapon or detachable magazine is not otherwise disqualified from possessing a
16 regulated firearm;

17 (6) the receipt of an assault weapon or detachable magazine by a personal
18 representative of an estate for purposes of exercising the powers and duties of a personal
19 representative of an estate;

20 (7) possession by a person who is retired in good standing from service with
21 a law enforcement agency of the State or a local unit in the State and is not otherwise
22 prohibited from receiving an assault weapon or detachable magazine if:

23 (i) the assault weapon or detachable magazine is sold or transferred
24 to the person by the law enforcement agency on retirement; or

25 (ii) the assault weapon or detachable magazine was purchased or
26 obtained by the person for official use with the law enforcement agency before retirement;

27 (8) possession or transport by an employee of an armored car company if
28 the individual is acting within the scope of employment and has a permit issued under Title
29 5, Subtitle 3 of the Public Safety Article; [or]

30 (9) possession, receipt, and testing by, or shipping to or from:

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

1 **6-234.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (2) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 5-101 OF
5 THE PUBLIC SAFETY ARTICLE.

6 (3) "DISQUALIFYING CRIME" HAS THE MEANING STATED IN § 5-101
7 OF THE PUBLIC SAFETY ARTICLE.

8 (4) "DOMESTICALLY RELATED CRIME" HAS THE MEANING STATED IN
9 § 6-233 OF THIS SUBTITLE.

10 (B) (1) THE COURT SHALL INFORM A PERSON CONVICTED OF A FELONY
11 OR A DISQUALIFYING CRIME THAT IS A DOMESTICALLY RELATED CRIME THAT THE
12 PERSON IS PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5-133
13 OF THE PUBLIC SAFETY ARTICLE.

14 ~~(2) THE COURT SHALL INFORM A PERSON RECEIVING A PROBATION~~
15 ~~BEFORE JUDGMENT FOR A DOMESTICALLY RELATED CRIME THAT THE PERSON IS~~
16 ~~PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5-133 OF THE~~
17 ~~PUBLIC SAFETY ARTICLE.~~

18 ~~(3)~~ (2) THE COURT SHALL INFORM A PERSON CONVICTED OF A
19 DOMESTICALLY RELATED CRIME THAT IS A DISQUALIFYING CRIME THAT THE
20 PERSON IS PROHIBITED FROM POSSESSING A RIFLE OR SHOTGUN UNDER § 5-205 OF
21 THE PUBLIC SAFETY ARTICLE.

22 (C) (1) THE COURT SHALL FURTHER ADVISE THE PERSON THAT PROOF
23 MUST BE PROVIDED TO THE ~~COURT~~ DEPARTMENT OF PUBLIC SAFETY AND
24 CORRECTIONAL SERVICES, IN ACCORDANCE WITH THIS SECTION, THAT ALL
25 FIREARMS ~~OWNED BY THE PERSON OR~~ IN THE PERSON'S POSSESSION THAT VIOLATE
26 THE PROHIBITIONS DESCRIBED IN SUBSECTION (B) OF THIS SECTION HAVE BEEN
27 TRANSFERRED FROM THE PERSON'S POSSESSION.

28 (2) (I) ~~A~~ EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS
29 PARAGRAPH, A TRANSFER OF A FIREARM UNDER THIS SUBSECTION SHALL BE MADE
30 WITHIN 2 BUSINESS DAYS AFTER THE CONVICTION OR ENTRY OF PROBATION
31 BEFORE JUDGMENT TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A
32 FEDERALLY LICENSED FIREARMS DEALER.

33 (II) A PERSON PROHIBITED FROM POSSESSING A FIREARM
34 UNDER § 5-133 OR ~~§ 5-206~~ § 5-207 OF THE PUBLIC SAFETY ARTICLE MAY

1 DESIGNATE A REPRESENTATIVE TO TRANSFER A FIREARM TO A STATE OR LOCAL
2 LAW ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER.

3 (III) A PERSON WHO IS PROHIBITED FROM POSSESSING A RIFLE
4 OR SHOTGUN UNDER § 5-205 OF THE PUBLIC SAFETY ARTICLE SHALL TRANSFER
5 THE RIFLE OR SHOTGUN WITHIN 2 BUSINESS DAYS AFTER THE CONVICTION TO:

6 1. A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL;

7 2. A FEDERALLY LICENSED FIREARMS DEALER; OR

8 3. ANOTHER PERSON WHO:

9 A. IS NOT PROHIBITED FROM POSSESSING THE FIREARM
10 UNDER STATE AND FEDERAL LAW; AND

11 B. DOES NOT LIVE IN THE SAME RESIDENCE.

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

16 (4) ~~(I)~~ A EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
17 PARAGRAPH, A WRITTEN NOTICE OF COMPLETED TRANSACTION OR PROOF OF
18 TRANSFER DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION SHALL INCLUDE:

19 ~~(I)~~ 1. THE NAME OF THE PERSON TRANSFERRING THE
20 FIREARM;

21 ~~(II)~~ 2. THE DATE THE FIREARM WAS TRANSFERRED; AND

22 ~~(III)~~ 3. THE SERIAL NUMBER, MAKE, AND MODEL OF THE
23 FIREARM.

24 (II) FOR A FIREARM MANUFACTURED BEFORE 1968,
25 IDENTIFYING MARKS MAY BE SUBSTITUTED FOR THE SERIAL NUMBER REQUIRED BY
26 THIS PARAGRAPH.

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

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 THE RIFLE OR
 10 SHOTGUN BECAUSE THE PERSON HAS BEEN CONVICTED OF A FELONY OR
 11 CONVICTED OF A DISQUALIFYING CRIME, AS DEFINED IN § 5-101 OF THIS TITLE, IF:

12 (I) THE RIFLE OR SHOTGUN IS UNLOADED;

13 (II) IT IS WITHIN 2 BUSINESS DAYS AFTER THE CONVICTION;

14 (III) THE PERSON HAS NOTIFIED A LAW ENFORCEMENT UNIT,
 15 BARRACKS, OR STATION THAT THE RIFLE OR SHOTGUN IS BEING TRANSPORTED TO
 16 A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED
 17 FIREARMS DEALER FOR THE PURPOSES OF TRANSFERRING THE RIFLE OR SHOTGUN
 18 TO THE OFFICIAL OR DEALER; AND

19 (IV) THE PERSON TRANSPORTS THE RIFLE OR SHOTGUN
 20 DIRECTLY TO THE STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR FEDERALLY
 21 LICENSED FIREARMS DEALER.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
 23 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.