
By: Delegates Genn, Dembrow, and Bissett
Introduced and read first time: January 26, 1996
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Firearms - Prohibitions - Adjudication of Delinquency**

3 FOR the purpose of specifying that a person may not be issued a permit to carry a
4 handgun if the person has been adjudicated delinquent for a crime of violence
5 within a certain period of time; prohibiting dealers of certain firearms from selling
6 or transferring certain firearms to certain individuals who have been adjudicated
7 delinquent for certain offenses within a certain period of time; prohibiting certain
8 individuals who have been adjudicated delinquent for certain offenses within a
9 certain period of time from possessing certain firearms; requiring individuals to
10 disclose certain information on an application to purchase or transfer certain
11 firearms; providing that certain juvenile records are not confidential and that the
12 State Police may have access to the records if the records contain certain
13 information and are used solely for the purposes of enforcing certain provisions of
14 law; making stylistic changes; and generally relating to firearms and adjudications of
15 delinquency.

16 BY repealing and reenacting, with amendments,
17 Article 27 - Crimes and Punishments
18 Section 36E(a), 442(f), 445, and 481E(b)
19 Annotated Code of Maryland
20 (1992 Replacement Volume and 1995 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article 27 - Crimes and Punishments
23 Section 441(e)
24 Annotated Code of Maryland
25 (1992 Replacement Volume and 1995 Supplement)

26 BY repealing and reenacting, with amendments,
27 Article - Courts and Judicial Proceedings
28 Section 3-828
29 Annotated Code of Maryland
30 (1995 Replacement Volume and 1995 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 36E.

5 (a) A permit to carry a handgun shall be issued within a reasonable time by the
6 Secretary of the State Police, upon application under oath therefor, to any person whom
7 the Secretary finds:

8 (1) Is eighteen years of age or older; and

9 (2) Has not been convicted of a felony or of a misdemeanor for which a
10 sentence of imprisonment for more than one year has been imposed or, if convicted of
11 such a crime, has been pardoned or has been granted relief pursuant to Title 18, § 925(c)
12 of the United States Code; and

13 (3) Has not been committed to any detention, training, or correctional
14 institution for juveniles for longer than one year after an adjudication of delinquency by
15 a juvenile court; provided, however, that a person shall not be disqualified by virtue of
16 this paragraph (3) if, at the time of the application, more than ten years [has] HAVE
17 elapsed since [his] THE PERSON'S release from such institution; and

18 (4) HAS NOT BEEN ADJUDICATED DELINQUENT FOR A CRIME OF
19 VIOLENCE, AS DEFINED IN § 441 OF THIS ARTICLE. HOWEVER, A PERSON MAY NOT BE
20 DISQUALIFIED BY VIRTUE OF THIS PARAGRAPH IF, AT THE TIME OF THE
21 APPLICATION, MORE THAN 10 YEARS HAVE ELAPSED SINCE THE ADJUDICATION OF
22 DELINQUENCY; AND

23 [(4)] (5) Has not been convicted of any offense involving the possession,
24 use, or distribution of controlled dangerous substances; and is not presently an addict, an
25 habitual user of any controlled dangerous substance not under legitimate medical
26 direction, or an alcoholic; and

27 [(5)] (6) Has, based on the results of investigation, not exhibited a
28 propensity for violence or instability which may reasonably render [his] THE possession
29 of a handgun a danger to [himself] THE APPLICANT or other law-abiding persons; and

30 [(6)] (7) Has, based on the results of investigation, good and substantial
31 reason to wear, carry, or transport a handgun, provided however, that the phrase "good
32 and substantial reason" as used herein shall be deemed to include a finding that such
33 permit is necessary as a reasonable precaution against apprehended danger.

34 441.

35 (e) The term "crime of violence" means abduction; arson in the first degree;
36 burglary in the first, second, or third degree; escape; kidnapping; manslaughter, excepting
37 involuntary manslaughter; mayhem; murder; rape; robbery; robbery with a deadly
38 weapon; carjacking or armed carjacking; sexual offense in the first degree; and sodomy; or
39 an attempt to commit any of the aforesaid offenses; or assault with intent to commit any
40 other offense punishable by imprisonment for more than one year.

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1 442.

2 (f) The application to purchase or transfer shall contain the following
3 information:

4 (1) Applicant's name, address, occupation, place and date of birth, height,
5 weight, race, eye and hair color and signature. In the event the applicant is a corporation,
6 the application shall be completed and executed by a corporate officer who is a resident
7 of the jurisdiction in which the application is made.

8 (2) A statement by the applicant that he or she:

9 (i) Has never been convicted of a crime of violence, in this State or
10 elsewhere, or of a violation of any of the provisions of [§§ 286, 286A or 286C] § 286, §
11 286A, OR § 286C of this article or any conspiracy to commit any crimes established by those
12 sections, or of any of the provisions of this subtitle.

13 (II) HAS NOT BEEN ADJUDICATED DELINQUENT FOR A CRIME OF
14 VIOLENCE WITHIN THE PAST 10 YEARS.

15 [(ii)] (III) Is not a fugitive from justice.

16 [(iii)] (IV) Is not a habitual drunkard.

17 [(iv)] (V) Is not an addict or a habitual user of narcotics, barbiturates
18 or amphetamines.

19 [(v)] (VI) Has never spent more than thirty consecutive days in any
20 medical institution for treatment of a mental disorder or disorders, unless there is
21 attached to the application a physician's certificate, issued within thirty days prior to the
22 date of application, certifying that the applicant is capable of possessing a pistol or
23 revolver without undue danger to himself or herself, or to others.

24 [(vi)] (VII) Is at least 21 years of age as required by federal law.

25 [(vii)] (VIII) Has or has not submitted a prior application and, if so,
26 when and where.

27 (3) The date and hour the application was delivered in completed form to
28 the prospective seller or transferor by the prospective purchaser or transferee.

29 445.

30 (a) All restrictions imposed by the laws, ordinances or regulations of all
31 subordinate jurisdictions within the State of Maryland on possession or transfers by
32 private parties of pistols and revolvers are superseded by this section and the State of
33 Maryland hereby preempts the right of such jurisdictions to regulate the possession and
34 transfer of pistols and revolvers.

35 (b) A dealer or person may not sell or transfer a pistol or revolver to a person
36 whom he knows or has reasonable cause to believe:

37 (1) [has] HAS been convicted of a crime of violence, or of a violation of any
38 of the provisions of § 286, § 286A, or § 286C of this article, or any conspiracy to commit

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1 any crimes established by those sections or of any of the provisions of this subtitle[, or
2 is];

3 (2) HAS BEEN ADJUDICATED DELINQUENT FOR A CRIME OF VIOLENCE
4 WITHIN THE PAST 10 YEARS;

5 (3) IS a fugitive from justice[, or is];

6 (4) IS a habitual drunkard[, or is];

7 (5) IS addicted to or a habitual user of narcotics, barbiturates or
8 amphetamines[, or is];

9 (6) IS of unsound mind[, or to any person];

10 (7) IS visibly under the influence of alcohol or drugs[, or to any person]; OR

11 (8) IS under 21 years of age as required by federal law.

12 (c) A person may not possess a pistol or revolver if the person:

13 (1) Has been convicted of:

14 (i) A crime of violence; or

15 (ii) Any provisions of this subtitle; [or]

16 (2) HAS BEEN ADJUDICATED DELINQUENT FOR A CRIME OF VIOLENCE
17 WITHIN THE PAST 10 YEARS; OR

18 [(2)] (3) Is:

19 (i) A fugitive from justice;

20 (ii) A habitual drunkard;

21 (iii) A habitual abuser of narcotics, barbiturates, or amphetamines; or

22 (iv) Suffering from a mental disorder as defined in § 10-101(h)(2) of
23 the Health - General Article and has a history of violent behavior against another person
24 or self, or has been confined for more than 30 consecutive days to a facility as defined in
25 § 10-101 of the Health - General Article, unless the person possesses a physician's
26 certification that the person is capable of possessing a pistol or revolver without undue
27 danger to the person or to others.

28 481E.

29 (b) (1) A dealer or person may not sell or transfer any assault weapon to a
30 person whom the dealer or person knows or has reasonable cause to believe:

31 (i) Has been convicted of a crime of violence or of any of the
32 provisions of this subtitle or § 281A of this article;

33 (II) HAS BEEN ADJUDICATED DELINQUENT FOR A CRIME OF
34 VIOLENCE WITHIN THE PAST 10 YEARS;

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1 [(ii)] (III) Is a fugitive from justice;

2 [(iii)] (IV) Is an habitual drunkard or is addicted to or an habitual user
3 of narcotics, barbiturates, or amphetamines;

4 [(iv)] (V) Is of unsound mind;

5 [(v)] (VI) Is visibly under the influence of alcohol or drugs; or

6 [(vi)] (VII) Is under 21 years of age.

7 (2) A dealer may not sell or transfer any assault weapon until the dealer and
8 the person making an application to purchase or transfer comply with all of the
9 requirements for the sale or transfer of a pistol or revolver as provided for under § 442 of
10 this article, including payment of the application fee.

11 **Article - Courts and Judicial Proceedings**

12 3-828.

13 (a) A police record concerning a child is confidential and shall be maintained
14 separate from those of adults. Its contents may not be divulged, by subpoena or otherwise,
15 except by order of the court upon good cause shown or as otherwise
16 provided in § 7-302.1 of the Education Article. This subsection does not prohibit access
17 to and confidential use of the record by the Department of Juvenile Justice or in the
18 investigation and prosecution of the child by any law enforcement agency.

19 (b) (1) A court record pertaining to a child is confidential and its contents may
20 not be divulged, by subpoena or otherwise, except by order of the court upon good cause
21 shown or as otherwise provided in § 7-302.1 of the Education Article.

22 (2) This subsection does not prohibit access to and the use of the court
23 record or fingerprints of a child described under the Criminal Justice Information System
24 subtitle of Article 27 of the Code in a proceeding in the court involving the child, by
25 personnel of the court, the State's Attorney, counsel for the child, a court-appointed
26 special advocate for the child, or authorized personnel of the Department of Juvenile
27 Justice, or, in a proceeding involving a child alleged to be in need of assistance, by
28 authorized personnel of the Social Services Administration and local departments of
29 social services of the Department of Human Resources in order to conduct a child abuse
30 or neglect investigation or to comply with requirements imposed under Title IV-E of the
31 Social Security Act.

32 (3) Information obtained from a juvenile court record by authorized
33 personnel of the Department of Human Resources under paragraph (2) of this subsection
34 is subject to the provisions of Article 88A, § 6 of the Code.

35 (4) (i) Except as provided in subparagraph (ii) of this paragraph, this
36 subsection does not prohibit access to and confidential use of the court record or
37 fingerprints of a child described under the Criminal Justice Information System subtitle
38 of Article 27 of the Code in an investigation and prosecution by a law enforcement
39 agency.

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1 (ii) The court record or fingerprints of a child described under Article
2 27, §§ 747(a)(21) and 747A of the Code may not be disclosed to:

3 1. A federal criminal justice agency or information center; or

4 2. Any law enforcement agency other than a law enforcement
5 agency of the State or a political subdivision of the State.

6 (c) The court, on its own motion or on petition, and for good cause shown, may
7 order the court records of a child sealed, and, upon petition or on its own motion, shall
8 order them sealed after the child has reached 21 years of age. If sealed, the court records
9 of a child may not be opened, for any purpose, except by order of the court upon good
10 cause shown.

11 (d) This section does not prohibit access to or use of any juvenile record by the
12 Maryland Division of Parole and Probation or the Maryland Parole Commission when the
13 Division or the Commission is carrying out any of their statutory duties either at the
14 direction of a court of competent jurisdiction, or when the Maryland Parole Commission
15 is carrying out any of its statutory duties, if the record concerns a charge or adjudication
16 of delinquency.

17 (e) This section does not prohibit access to and use of any juvenile record by the
18 Maryland Division of Correction when the Division is carrying out any of its statutory
19 duties if: (1) the individual to whom the record pertains is committed to the custody of
20 the Division; and (2) the record concerns an adjudication of delinquency.

21 (F) THIS SECTION DOES NOT PROHIBIT ACCESS TO OR USE OF ANY JUVENILE
22 RECORD BY THE STATE POLICE IF:

23 (1) THE RECORD CONCERNS AN ADJUDICATION OF DELINQUENCY;
24 AND

25 (2) THE RECORD IS USED SOLELY FOR THE PURPOSE OF ENFORCING
26 THE PROVISIONS OF ARTICLE 27, §§ 36E, 442, 445, AND 481E OF THE CODE.

27 [(f)] (G) Subject to the provisions of Article 83C, § 2-115 of the Code, this section
28 does not prohibit access to or use of any juvenile record for criminal justice research
29 purposes. A record used under this subsection may not contain the name of the individual
30 to whom the record pertains, or any other identifying information which could reveal the
31 individual's name.

32 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 1996.