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**By: Delegates Genn, Preis, Owings, Dembrow, Grosfeld, Harkins, Bissett, Hutchins, M. Burns, E. Burns, O'Donnell, D. Murphy, Petzold, Jacobs, Perry, Turner, Shriver, and Barve**

Introduced and read first time: January 26, 1996

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Firearms - Use in the Commission of a Felony or Crime of Violence**

3 FOR the purpose of expanding the current law making it a separate offense to use certain  
4 firearms in the commission of a felony or crime of violence by including certain  
5 other firearms; establishing that a person convicted of a subsequent offense under  
6 this Act is not eligible for parole for a certain period of time; and generally relating  
7 to firearms.

8 BY repealing

9 Article 27 - Crimes and Punishments  
10 Section 36B(d)  
11 Annotated Code of Maryland  
12 (1992 Replacement Volume and 1995 Supplement)

13 BY adding to

14 Article 27 - Crimes and Punishments  
15 Section 36L  
16 Annotated Code of Maryland  
17 (1992 Replacement Volume and 1995 Supplement)

18 BY repealing and reenacting, without amendments,

19 Article 27 - Crimes and Punishments  
20 Section 441(e)  
21 Annotated Code of Maryland  
22 (1992 Replacement Volume and 1995 Supplement)

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

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1 **Article 27 - Crimes and Punishments**

2 36B.

3 [(d) Any person who shall use a handgun or an antique firearm capable of being  
4 concealed on the person in the commission of any felony or any crime of violence as  
5 defined in § 441 of this article shall be guilty of a separate misdemeanor and on  
6 conviction thereof shall, in addition to any other sentence imposed by virtue of  
7 commission of said felony or misdemeanor:

8 (1) For a first offense, be sentenced to the Maryland Division of Correction  
9 for a term of not less than 5 nor more than 20 years, and:

10 (i) It is mandatory upon the court to impose no less than the  
11 minimum sentence of 5 years; and

12 (ii) Except as otherwise provided in Article 31B, § 11 of the Code, the  
13 person is not eligible for parole in less than 5 years; and

14 (2) For a second or subsequent offense, be sentenced to the Maryland  
15 Division of Correction for a term of not less than 5 nor more than 20 years, and it is  
16 mandatory upon the court to impose no less than a minimum consecutive sentence of 5  
17 years which shall be served consecutively and not concurrently to any other sentence  
18 imposed by virtue of the commission of said felony or misdemeanor.]

19 36L.

20 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
21 INDICATED.

22 (2) "FIREARM" MEANS A:

23 (I) HANDGUN, ANTIQUE FIREARM, RIFLE, SHOTGUN,  
24 SHORT-BARRELED RIFLE, OR SHORT-BARRELED SHOTGUN, AS DEFINED IN § 36F OF  
25 THIS SUBHEADING;

26 (II) PISTOL, REVOLVER, OR ANTIQUE PISTOL OR REVOLVER, AS  
27 DEFINED IN § 441 OF THIS ARTICLE;

28 (III) MACHINE GUN, AS DEFINED IN § 372 OF THIS ARTICLE;

29 (IV) ASSAULT WEAPON, AS DEFINED IN § 481E OF THIS ARTICLE; OR

30 (V) ASSAULT PISTOL, AS DEFINED IN § 36H-1 OF THIS SUBHEADING.

31 (3) "FIREARM" DOES NOT INCLUDE A WEAPON THAT HAS BEEN  
32 MODIFIED TO RENDER IT PERMANENTLY INOPERATIVE.

33 (B) A PERSON WHO USES A FIREARM IN THE COMMISSION OF A FELONY OR  
34 CRIME OF VIOLENCE AS DEFINED IN § 441 OF THIS ARTICLE SHALL BE GUILTY OF A  
35 SEPARATE MISDEMEANOR AND ON CONVICTION SHALL, IN ADDITION TO ANY  
36 OTHER SENTENCE IMPOSED BY VIRTUE OF COMMISSION OF THE FELONY OR  
37 MISDEMEANOR:

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1 (1) FOR A FIRST OFFENSE, BE SENTENCED TO THE MARYLAND DIVISION  
2 OF CORRECTION FOR A TERM OF NOT LESS THAN 5 NOR MORE THAN 20 YEARS, AND:

3 (I) IT IS MANDATORY ON THE COURT TO IMPOSE NO LESS THAN  
4 THE MINIMUM SENTENCE OF 5 YEARS; AND

5 (II) EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 31B, § 11 OF THE  
6 CODE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 5 YEARS; AND

7 (2) FOR A SECOND OR SUBSEQUENT OFFENSE, BE SENTENCED TO THE  
8 MARYLAND DIVISION OF CORRECTION FOR A TERM OF NOT LESS THAN 5 NOR MORE  
9 THAN 20 YEARS, AND:

10 (I) IT IS MANDATORY ON THE COURT TO IMPOSE NO LESS THAN A  
11 MINIMUM SENTENCE OF 5 YEARS WHICH SHALL BE SERVED CONSECUTIVELY AND  
12 NOT CONCURRENTLY TO ANY OTHER SENTENCE IMPOSED BY VIRTUE OF THE  
13 COMMISSION OF THE FELONY OR MISDEMEANOR; AND

14 (II) EXCEPT AS OTHERWISE PROVIDED IN ARTICLE 31B, § 11 OF THE  
15 CODE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 5 YEARS.

16 441.

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

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