
By: Senators Hollinger, Blount, Collins, Della, Forehand, Hoffman, Kelley, Lawlah, Middleton, Ruben, Sfikas, Teitelbaum, Trotter, and Van Hollen

Introduced and read first time: January 17, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Weapons-Free School Zone**

3 FOR the purpose of expanding a prohibition against carrying or possessing certain
4 weapons on public school property to prohibit a person from carrying or possessing
5 a firearm, knife, or other deadly weapon on or within a certain distance of real
6 property used for certain school purposes, on a campus or in a building of an
7 institution of higher education, or on a school vehicle under certain circumstances;
8 establishing certain exceptions; allowing certain maps produced or reproduced by
9 any municipal corporation or county agency or department to be used in a
10 prosecution under this Act; requiring that maps approved under this Act be filed
11 and kept as an official record; allowing the use of certain other evidence in a
12 prosecution under this Act; imposing certain penalties; authorizing a court to
13 impose certain other penalties after making written findings under certain
14 circumstances; making stylistic and technical changes; increasing the penalty for
15 carrying, wearing, or transporting a handgun with the deliberate purpose of injuring
16 or killing another person; allowing county school boards to post certain signs near
17 certain schools; and generally relating to the penalties for wearing, carrying,
18 transporting, or possessing a firearm, knife, or other deadly weapon.

19 BY repealing and reenacting, with amendments,
20 Article 27 - Crimes and Punishments
21 Section 36A and 36B(a), (b), and (e)
22 Annotated Code of Maryland
23 (1996 Replacement Volume)

24 BY repealing and reenacting, with amendments,
25 Article - Education
26 Section 4-124(a) and (b)
27 Annotated Code of Maryland
28 (1997 Replacement Volume)

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

2

1 **Article 27 - Crimes and Punishments**

2 36A.

3 (a) [No person, unless otherwise excepted in this section, shall] EXCEPT AS
4 OTHERWISE PROVIDED IN THIS SECTION, A PERSON MAY NOT carry or possess any
5 [rifle, gun,] FIREARM, knife, or OTHER deadly weapon of any kind [on any public
6 school property in this State]:

7 (1) ON OR WITHIN 1,000 FEET OF ANY REAL PROPERTY OWNED OR
8 LEASED TO ANY ELEMENTARY SCHOOL, SECONDARY SCHOOL, OR SCHOOL BOARD,
9 AND USED FOR ELEMENTARY OR SECONDARY EDUCATION, AS DEFINED UNDER §
10 1-101 OF THE EDUCATION ARTICLE, REGARDLESS OF WHETHER:

11 (I) SCHOOL WAS IN SESSION AT THE TIME OF THE OFFENSE; OR

12 (II) THE REAL PROPERTY WAS BEING USED FOR OTHER PURPOSES
13 BESIDES SCHOOL PURPOSES AT THE TIME OF THE OFFENSE;

14 (2) ON THE CAMPUS OR IN A BUILDING OF ANY INSTITUTION OF
15 HIGHER EDUCATION, AS DEFINED IN § 10-101 OF THE EDUCATION ARTICLE; OR

16 (3) ON A SCHOOL VEHICLE, AS DEFINED UNDER § 11-154 OF THE
17 TRANSPORTATION ARTICLE.

18 (b) Nothing in this section shall be construed to apply to:

19 (1) Law enforcement officers in the regular course of their duty;

20 (2) Persons hired by the boards of education in [the counties and Baltimore
21 City] A COUNTY OR BY AN INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN §
22 10-101 OF THE EDUCATION ARTICLE, specifically for the purpose of guarding public
23 school property;

24 (3) Persons engaged in organized shooting activity for educational purposes;
25 [or]

26 (4) Persons who, with a written invitation from the school principal, display
27 or engage in historical demonstrations using weapons or replicas of weapons for
28 educational purposes;

29 (5) A PERSON WHO OTHERWISE LAWFULLY POSSESSES A FIREARM,
30 KNIFE, OR OTHER DEADLY WEAPON IN A COMMERCIAL ESTABLISHMENT, IN A
31 PRIVATE RESIDENCE, OR ON OTHER PRIVATE PROPERTY;

32 (6) A PERSON WHO IS OTHERWISE LAWFULLY TRANSPORTING A
33 FIREARM, KNIFE, OR OTHER DEADLY WEAPON IN A MOTOR VEHICLE;

34 (7) A PERSON WHO IS OTHERWISE LAWFULLY TRANSPORTING A
35 FIREARM, KNIFE, OR OTHER DEADLY WEAPON THROUGH THE 1,000 FOOT AREA
36 DEFINED IN SUBSECTION (A)(1) OF THIS SECTION;

3

1 (8) A SCHOOL OFFICIAL OR EMPLOYEE ACTING IN THE NORMAL
2 COURSE OF EMPLOYMENT OR A STUDENT ACTING UNDER THE DIRECTION OF SUCH
3 SCHOOL OFFICIAL OR EMPLOYEE; OR

4 (9) ANY PERSON HAVING THE WRITTEN PERMISSION OF THE
5 PRINCIPAL.

6 (C) (1) IN A PROSECUTION UNDER THIS SECTION, A MAP THAT IS
7 PRODUCED OR REPRODUCED BY ANY MUNICIPAL OR COUNTY AGENCY OR
8 DEPARTMENT FOR THE PURPOSE OF DEPICTING THE LOCATION AND BOUNDARIES
9 OF THE AREA THAT IS ON OR WITHIN 1,000 FEET OF THE PROPERTY OF A PUBLIC OR
10 NONPUBLIC ELEMENTARY OR SECONDARY SCHOOL THAT IS USED FOR SCHOOL
11 PURPOSES, OR A TRUE COPY OF THE MAP, SHALL BE ADMISSIBLE AND SHALL
12 CONSTITUTE PRIMA FACIE EVIDENCE OF THE LOCATION AND BOUNDARIES OF THE
13 AREA IF:

14 (I) THE GOVERNING BODY OF THE COUNTY OR MUNICIPAL
15 CORPORATION HAS APPROVED THE MAP AS AN OFFICIAL RECORD OF THE
16 LOCATION AND BOUNDARIES OF THE AREA; AND

17 (II) THE MAP IS CERTIFIED AS A TRUE COPY BY THE CUSTODIAN
18 OF THE MAP.

19 (2) A MAP APPROVED UNDER THIS SECTION MAY BE REVISED FROM
20 TIME TO TIME BY THE GOVERNING BODY OF THE MUNICIPAL CORPORATION OR
21 COUNTY.

22 (3) THE ORIGINAL OF EVERY MAP APPROVED OR REVISED UNDER THIS
23 SECTION, OR A TRUE COPY, SHALL BE FILED WITH THE MUNICIPAL CORPORATION
24 OR COUNTY AND SHALL BE MAINTAINED AS AN OFFICIAL RECORD OF THE
25 MUNICIPAL CORPORATION OR COUNTY.

26 (4) THIS SECTION DOES NOT PRECLUDE THE PROSECUTION FROM
27 INTRODUCING OR RELYING UPON ANY OTHER EVIDENCE OR TESTIMONY TO
28 ESTABLISH ANY ELEMENT OF THIS OFFENSE.

29 (5) THIS SECTION DOES NOT PRECLUDE THE USE OR ADMISSIBILITY OF
30 A MAP OR DIAGRAM OTHER THAN THE ONE WHICH HAS BEEN APPROVED BY THE
31 MUNICIPAL CORPORATION OR COUNTY.

32 [(c)] (D) (1) Any person who violates this section shall[, upon conviction, be
33 guilty of a misdemeanor and shall be sentenced to pay a fine of no more than \$1,000 or
34 shall be sentenced to the Maryland Department of Correction for a period of not more
35 than 3 years. Any such person who shall be found to carry a handgun in violation of this
36 section, shall be sentenced as provided in § 36B of this article];

37 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, ON
38 CONVICTION FOR A FIRST OFFENSE, BE GUILTY OF A MISDEMEANOR AND SUBJECT
39 TO IMPRISONMENT FOR NOT LESS THAN 18 MONTHS NOR MORE THAN 3 YEARS; AND

4
1 (II) ON CONVICTION FOR A SECOND OR SUBSEQUENT OFFENSE, BE
2 GUILTY OF A FELONY AND SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 8
3 YEARS NOR MORE THAN 10 YEARS.

4 (2) (I) IF, AFTER GIVING CONSIDERATION TO THE NATURE AND
5 CIRCUMSTANCES OF THE CRIME AND TO THE HISTORY AND CHARACTER OF THE
6 DEFENDANT, THE COURT FINDS THAT A SENTENCE UNDER PARAGRAPH (1) OF THIS
7 SUBSECTION WOULD BE UNDULY HARSH, A COURT MAY IMPOSE A SENTENCE OF
8 LESS THAN 18 MONTHS OR A FINE OF NOT LESS THAN \$250 NOR MORE THAN \$2,500 OR
9 BOTH.

10 (II) THE COURT SHALL SUBMIT A WRITTEN REPORT OF ITS
11 FINDINGS AND THE BASIS FOR THEM TO THE ADMINISTRATIVE OFFICE OF THE
12 COURTS.

13 36B.

14 (a) The General Assembly of Maryland hereby finds and declares that:

15 [(i)] (1) There has, in recent years, been an alarming increase in the
16 number of violent crimes perpetrated in Maryland, and a high percentage of those crimes
17 involve the use of handguns;

18 [(ii)] (2) The result has been a substantial increase in the number of
19 persons killed or injured which is traceable, in large part, to the carrying of handguns on
20 the streets and public ways by persons inclined to use them in criminal activity;

21 [(iii)] (3) The laws currently in force have not been effective in curbing the
22 more frequent use of handguns in perpetrating crime; and

23 [(iv)] (4) Further regulations on the wearing, carrying, and transporting of
24 handguns are necessary to preserve the peace and tranquility of the State and to protect
25 the rights and liberties of its citizens.

26 (b) Any person who shall UNLAWFULLY wear, carry, or transport any handgun,
27 whether concealed or open, upon or about his person, and any person who shall
28 UNLAWFULLY wear, carry or knowingly transport any handgun, whether concealed or
29 open, in any vehicle traveling upon the public roads, highways, waterways, or airways or
30 upon roads or parking lots generally used by the public in this State shall be guilty of a
31 misdemeanor; and it shall be a rebuttable presumption that the person is knowingly
32 transporting the handgun; and on conviction of the misdemeanor shall be fined or
33 imprisoned as follows:

34 [(i)] (1) If the person has not previously been convicted of unlawfully
35 wearing, carrying or transporting a handgun in violation of this section, or of unlawfully
36 using a handgun in the commission of a crime in violation of subsection (d) of this section,
37 or of unlawfully carrying a concealed weapon in violation of § 36 of this article, [or of
38 unlawfully carrying a deadly weapon on public school property in violation of § 36A of
39 this article,] he shall be fined not less than [two hundred and fifty (\$250.00) dollars]
40 \$250, nor more than [twenty-five hundred (\$2,500.00) dollars] \$2,500, or be imprisoned in
41 jail or sentenced to the Maryland Division of Correction for a term of not less than 30
42 days nor more than [three] 3 years, or both; provided, however, that if it shall appear

5

1 from the evidence that the handgun was worn, carried, or transported on any public
2 school property in this State, the court shall impose a sentence of imprisonment of not
3 less than 90 days].

4 [(ii)] (2) If the person has previously been once convicted of unlawfully
5 wearing, carrying, or transporting a handgun in violation of this section, or of unlawfully
6 using a handgun in the commission of a crime in violation of subsection (d) of this section,
7 or of unlawfully carrying a concealed weapon in violation of § 36 of this article, [or of
8 unlawfully carrying a deadly weapon on public school property in violation of § 36A of
9 this article,] he shall be sentenced to the Maryland Division of Correction for a term of
10 not less than 1 year nor more than 10 years, and it is mandatory upon the court to impose
11 no less than the minimum sentence of 1 year[; provided, however, that if it shall appear
12 from the evidence that the handgun was worn, carried, or transported on any public
13 school property in this State, the court shall impose a sentence of imprisonment of not
14 less than three years].

15 [(iii)] (3) If the person has previously been convicted more than once of
16 unlawfully wearing, carrying, or transporting a handgun in violation of this section, or of
17 unlawfully using a handgun in the commission of a crime in violation of subsection (d) of
18 this section, or of unlawfully carrying a concealed weapon in violation of § 36 of this
19 article, [or of unlawfully carrying a deadly weapon on public school property in violation
20 of § 36A of this article,] or any combination thereof, he shall be sentenced to the
21 Maryland Division of Correction for a term of not less than [three] 3 years nor more
22 than 10 years, and it is mandatory upon the court to impose no less than the minimum
23 sentence of [three] 3 years[; provided, however, that if it shall appear from the evidence
24 that the handgun was worn, carried, or transported on any public school property in this
25 State, the court shall impose a sentence of imprisonment of not less than 5 years].

26 [(iv)] (4) If it shall appear from the evidence that any handgun [referred
27 to in this subsection] was carried, worn, or transported with the deliberate purpose of
28 injuring or killing another person, the court shall impose a sentence of imprisonment of
29 not less than [5] 8 years.

30 (e) Notwithstanding any other provision of law to the contrary, including the
31 provisions of § 643 of this article, (1) except with respect to a sentence prescribed in
32 subsection [(b)(i)] (B)(1) of this section, no court shall enter a judgment for less than the
33 mandatory minimum sentence prescribed in this subheading in those cases for which a
34 mandatory minimum sentence is specified in this subheading; (2) except with respect to a
35 sentence prescribed in subsection [(b)(i)] (B)(1) of this section, no court shall suspend a
36 mandatory minimum sentence prescribed in this subheading; (3) except with respect to a
37 sentence prescribed in subsection [(b)(i)] (B)(1) of this section for wearing, carrying, or
38 transporting a handgun in violation of § 36B other than on public school property, no
39 court shall enter a judgment of probation before or without verdict with respect to any
40 case arising under this subheading; and (4) except with respect to a sentence prescribed
41 in subsection [(b)(i)] (B)(1) of this section no court shall enter a judgment of probation
42 after verdict with respect to any case arising under this subheading which would have the
43 effect of reducing the actual period of imprisonment prescribed in this subheading as a
44 mandatory minimum sentence.

6

1 **Article - Education**

2 4-124.

3 (a) A county board may adopt regulations requiring the posting of signs
4 designating the areas within 1,000 feet of public and nonpublic elementary and secondary
5 schools as "drug AND WEAPONS free school zones".

6 (b) The signs shall be designed in order to provide notice of the provisions of
7 Article 27, [§ 286D] §§ 36A AND 286D of the Code.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 1997.