
By: **Delegate Marriott**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Access to Firearms by Minors - Felony**

3 FOR the purpose of changing from a misdemeanor to a felony the crime of storing or
4 leaving a loaded firearm in a location where an unsupervised minor would gain
5 access to the firearm; increasing the penalty for allowing access to a firearm by
6 a minor; altering the jurisdiction of the District Court; making conforming
7 changes; and generally relating to a minor's access to firearms.

8 BY repealing and reenacting, with amendments,
9 Article 27 - Crimes and Punishments
10 Section 36K
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1998 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Courts and Judicial Proceedings
15 Section 4-301 and 4-302
16 Annotated Code of Maryland
17 (1998 Replacement Volume)

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

20 **Article 27 - Crimes and Punishments**

21 36K.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) (i) "Firearm" means a pistol, revolver, rifle, shotgun,
24 short-barreled rifle, short-barreled shotgun, or any other firearm.

25 (ii) "Firearm" does not include antique firearms as defined in § 36F
26 of this article.

1 (3) "Minor" means an individual under the age of 16.

2 (4) "Ammunition" means any ammunition cartridge, shell or other device
3 containing explosive or incendiary material designed and intended for use in a
4 firearm.

5 (b) Except as provided in this section, an individual may not store or leave a
6 loaded firearm in any location where the individual knew or should have known that
7 an unsupervised minor would gain access to the firearm.

8 (c) This section does not apply if:

9 (1) A minor's access to a firearm is supervised by a person 18 years old or
10 older;

11 (2) A minor's access to a firearm was obtained as a result of an unlawful
12 entry;

13 (3) A firearm is in the possession or control of a law enforcement officer
14 while the officer is engaged in official duties; or

15 (4) A minor has a certificate of firearm and hunter safety as set forth in
16 § 10-301.1 of the Natural Resources Article.

17 (d) (1) A violation of this section may not:

18 (i) Be considered evidence of negligence;

19 (ii) Be considered evidence of contributory negligence;

20 (iii) Limit liability of a party or an insurer; or

21 (iv) Diminish recovery for damages arising out of the ownership,
22 maintenance, or operation of a firearm or ammunition.

23 (2) A party, witness, or counsel may not make reference to a violation of
24 this section during a trial of a civil action that involves property damage, personal
25 injury, or death.

26 (e) [Any] A person who violates this section is guilty of a [misdemeanor]
27 FELONY and [upon] ON conviction IS SUBJECT TO A FINE NOT EXCEEDING [shall be
28 fined not more than \$1,000] \$5,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR
29 BOTH.

30 **Article - Courts and Judicial Proceedings**

31 4-301.

32 (a) Except as provided in § 4-302 and § 3-804, the District Court has
33 exclusive original jurisdiction in a criminal case in which a person at least 16 years

1 old or a corporation is charged with violation of the vehicle laws, or the State Boat
2 Act, or rules and regulations adopted pursuant to it.

3 (b) Except as provided in § 4-302 of this subtitle, the District Court also has
4 exclusive original jurisdiction in a criminal case in which a person at least 18 years
5 old or a corporation is charged with:

6 (1) Commission of a common-law or statutory misdemeanor regardless
7 of the amount of money or value of the property involved;

8 (2) Violation of §§ 342 through 344 of Article 27 of the Code, whether a
9 felony or a misdemeanor;

10 (3) Violation of a county, municipal, or other ordinance, if the violation is
11 not a felony;

12 (4) Criminal violation of a State, county, or municipal rule or regulation,
13 if the violation is not a felony;

14 (5) Doing or omitting to do any act made punishable by a fine,
15 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or
16 regulation defining the violation if the violation is not a felony;

17 (6) Violation of Article 27, § 141 of this Code, whether a felony or a
18 misdemeanor;

19 (7) Violation of Article 27, § 145 of this Code, whether a felony or
20 misdemeanor;

21 (8) Violation of Article 27, § 44 of the Code;

22 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a
23 felony or a misdemeanor;

24 (10) Violation of § 9-1106 of the Labor and Employment Article;

25 (11) Violation of § 14-1403 of the Commercial Law Article;

26 (12) Violation of Article 27, § 388 of the Code; [or]

27 (13) Violation of Article 27, § 388A of the Code; OR

28 (14) VIOLATION OF ARTICLE 27, § 36K OF THE CODE.

29 4-302.

30 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), [and]
31 (13), AND (14) of this subtitle, the District Court does not have jurisdiction to try a
32 criminal case charging the commission of a felony.

1 (b) Except as provided in § 4-303 of this subtitle, the District Court does not
2 have criminal jurisdiction to try a case in which a juvenile court has exclusive original
3 jurisdiction.

4 (c) The jurisdiction of the District Court is concurrent with that of the juvenile
5 court in any criminal case arising under the compulsory public school attendance
6 laws of this State.

7 (d) (1) Except as provided in paragraph (2) of this subsection, the
8 jurisdiction of the District Court is concurrent with that of the circuit court in a
9 criminal case:

10 (i) In which the penalty may be confinement for three years or
11 more or a fine of \$2,500 or more; or

12 (ii) Which is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
13 (10), (11), (12), [and] (13), AND (14) of this subtitle.

14 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
15 circuit court does not have jurisdiction to try a case charging a violation of Article 27,
16 § 287 of the Code.

17 (ii) A circuit court does have jurisdiction to try a case charging a
18 violation of Article 27, § 287 of the Code if the defendant:

- 19 1. Properly demands a jury trial;
- 20 2. Appeals as provided by law from a final judgment entered
21 in the District Court; or
- 22 3. Is charged with another offense arising out of the same
23 circumstances that is within a circuit court's jurisdiction.

24 (e) (1) The District Court is deprived of jurisdiction if a defendant is entitled
25 to and demands a jury trial at any time prior to trial in the District Court.

26 (2) (i) Except as provided in subparagraph (ii) of this paragraph,
27 unless the penalty for the offense with which the defendant is charged permits
28 imprisonment for a period in excess of 90 days, a defendant is not entitled to a jury
29 trial in a criminal case.

30 (ii) Notwithstanding the provisions of subparagraph (i) of this
31 paragraph, the presiding judge of the District Court may deny a defendant a jury trial
32 if:

- 33 1. The prosecutor recommends in open court that the judge
34 not impose a penalty of imprisonment for a period in excess of 90 days, regardless of
35 the permissible statutory or common law maximum;

