

HOUSE BILL 1100

E4

2lr1857

By: **Delegates Wilson, Alston, Branch, and DeBoy**

Introduced and read first time: February 10, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Public Safety – Restrictions on Possession of Firearms – Convicted Felons**
3 **and People With Mental Disorders**

4 FOR the purpose of prohibiting a person from possessing a firearm if the person has
5 been convicted of a felony or, under certain circumstances, suffers from a mental
6 disorder or has been confined to a certain facility for a certain period of time;
7 establishing a penalty for a violation of this Act; prohibiting a court from
8 suspending any part of a certain mandatory minimum sentence; establishing
9 that a person is not eligible for parole during a certain mandatory minimum
10 sentence; establishing that each violation of a certain provision of law is a
11 separate crime; making conforming changes; and generally relating to
12 restrictions on the possession of firearms.

13 BY repealing and reenacting, without amendments,
14 Article – Public Safety
15 Section 5–101(h) and (p)
16 Annotated Code of Maryland
17 (2011 Replacement Volume)

18 BY repealing and reenacting, with amendments,
19 Article – Public Safety
20 Section 5–101(g), 5–133, and 5–206
21 Annotated Code of Maryland
22 (2011 Replacement Volume)

23 BY adding to
24 Article – Public Safety
25 Section 5–133.1
26 Annotated Code of Maryland
27 (2011 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Public Safety**

4 5–101.

5 (g) “Disqualifying crime” means:

6 (1) a crime of violence; **OR**

7 (2) [a violation classified as a felony in the State; or

8 (3)] a violation classified as a misdemeanor in the State that carries a
9 statutory penalty of more than 2 years.

10 (h) (1) “Firearm” means:

11 (i) a weapon that expels, is designed to expel, or may readily be
12 converted to expel a projectile by the action of an explosive; or

13 (ii) the frame or receiver of such a weapon.

14 (2) “Firearm” includes a starter gun.

15 (p) “Regulated firearm” means:

16 (1) a handgun; or

17 (2) a firearm that is any of the following specific assault weapons or
18 their copies, regardless of which company produced and manufactured that assault
19 weapon:

20 (i) American Arms Spectre da Semiautomatic carbine;

21 (ii) AK–47 in all forms;

22 (iii) Algimec AGM–1 type semi–auto;

23 (iv) AR 100 type semi–auto;

24 (v) AR 180 type semi–auto;

25 (vi) Argentine L.S.R. semi–auto;

26 (vii) Australian Automatic Arms SAR type semi–auto;

- 1 (viii) Auto-Ordnance Thompson M1 and 1927 semi-automatics;
- 2 (ix) Barrett light .50 cal. semi-auto;
- 3 (x) Beretta AR70 type semi-auto;
- 4 (xi) Bushmaster semi-auto rifle;
- 5 (xii) Calico models M-100 and M-900;
- 6 (xiii) CIS SR 88 type semi-auto;
- 7 (xiv) Claridge HI TEC C-9 carbines;
- 8 (xv) Colt AR-15, CAR-15, and all imitations except Colt AR-15
9 Sporter H-BAR rifle;
- 10 (xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and
11 K-2;
- 12 (xvii) Dragunov Chinese made semi-auto;
- 13 (xviii) Famas semi-auto (.223 caliber);
- 14 (xix) Feather AT-9 semi-auto;
- 15 (xx) FN LAR and FN FAL assault rifle;
- 16 (xxi) FNC semi-auto type carbine;
- 17 (xxii) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
- 18 (xxiii) Steyr-AUG-SA semi-auto;
- 19 (xxiv) Galil models AR and ARM semi-auto;
- 20 (xxv) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3;
- 21 (xxvi) Holmes model 88 shotgun;
- 22 (xxvii) Avtomat Kalashnikov semiautomatic rifle in any format;
- 23 (xxviii) Manchester Arms "Commando" MK-45, MK-9;
- 24 (xxix) Mandell TAC-1 semi-auto carbine;
- 25 (xxx) Mossberg model 500 Bullpup assault shotgun;

- 1 (xxxix) Sterling Mark 6;
- 2 (xxxix) P.A.W.S. carbine;
- 3 (xxxix) Ruger mini-14 folding stock model (.223 caliber);
- 4 (xxxix) SIG 550/551 assault rifle (.223 caliber);
- 5 (xxxix) SKS with detachable magazine;
- 6 (xxxix) AP-74 Commando type semi-auto;
- 7 (xxxix) Springfield Armory BM-59, SAR-48, G3, SAR-3,
8 M-21 sniper rifle, M1A, excluding the M1 Garand;
- 9 (xxxix) Street sweeper assault type shotgun;
- 10 (xxxix) Striker 12 assault shotgun in all formats;
- 11 (xl) Unique F11 semi-auto type;
- 12 (xli) Daewoo USAS 12 semi-auto shotgun;
- 13 (xlii) UZI 9mm carbine or rifle;
- 14 (xliii) Valmet M-76 and M-78 semi-auto;
- 15 (xliv) Weaver Arms "Nighthawk" semi-auto carbine; or
- 16 (xlv) Wilkinson Arms 9mm semi-auto "Terry".

17 5-133.

18 (a) This section supersedes any restriction that a local jurisdiction in the
19 State imposes on the possession by a private party of a regulated firearm, and the
20 State preempts the right of any local jurisdiction to regulate the possession of a
21 regulated firearm.

22 (b) A person may not possess a regulated firearm if the person:

23 (1) has been convicted of a disqualifying crime;

24 (2) has been convicted of a violation classified as a common law crime
25 and received a term of imprisonment of more than 2 years;

26 (3) is a fugitive from justice;

1 (4) is a habitual drunkard;

2 (5) is addicted to a controlled dangerous substance or is a habitual
3 user;

4 [(6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
5 Health – General Article and has a history of violent behavior against the person or
6 another, unless the person has a physician’s certificate that the person is capable of
7 possessing a regulated firearm without undue danger to the person or to another;

8 (7) has been confined for more than 30 consecutive days to a facility as
9 defined in § 10–101 of the Health – General Article, unless the person has a
10 physician’s certificate that the person is capable of possessing a regulated firearm
11 without undue danger to the person or to another;]

12 [(8)] (6) except as provided in subsection (e) of this section, is a
13 respondent against whom a current non ex parte civil protective order has been
14 entered under § 4–506 of the Family Law Article; or

15 [(9)] (7) if under the age of 30 years at the time of possession, has
16 been adjudicated delinquent by a juvenile court for an act that would be a
17 disqualifying crime if committed by an adult.

18 (c) (1) A person may not possess a regulated firearm if the person was
19 previously convicted of[:

20 (i)] a crime of violence[; or

21 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, §
22 5–613, or § 5–614 of the Criminal Law Article].

23 (2) (i) Subject to paragraph (3) of this subsection, a person who
24 violates this subsection is guilty of a felony and on conviction is subject to
25 imprisonment for not less than 5 years and not exceeding 15 years.

26 (ii) The court may not suspend any part of the mandatory
27 minimum sentence of 5 years.

28 (iii) Except as otherwise provided in § 4–305 of the Correctional
29 Services Article, the person is not eligible for parole during the mandatory minimum
30 sentence.

31 (3) At the time of the commission of the offense, if a period of more
32 than 5 years has elapsed since the person completed serving the sentence for the most

1 recent conviction under paragraph [(1)(i) or (ii)] **(1)** of this subsection, including all
2 imprisonment, mandatory supervision, probation, and parole:

3 (i) the imposition of the mandatory minimum sentence is
4 within the discretion of the court; and

5 (ii) the mandatory minimum sentence may not be imposed
6 unless the State's Attorney notifies the person in writing at least 30 days before trial
7 of the State's intention to seek the mandatory minimum sentence.

8 (4) Each violation of this subsection is a separate crime.

9 (d) (1) Except as provided in paragraph (2) of this subsection, a person
10 who is under the age of 21 years may not possess a regulated firearm.

11 (2) Unless a person is otherwise prohibited from possessing a
12 regulated firearm, this subsection does not apply to:

13 (i) the temporary transfer or possession of a regulated firearm
14 if the person is:

15 1. under the supervision of another who is at least 21
16 years old and who is not prohibited by State or federal law from possessing a firearm;
17 and

18 2. acting with the permission of the parent or legal
19 guardian of the transferee or person in possession;

20 (ii) the transfer by inheritance of title, and not of possession, of
21 a regulated firearm;

22 (iii) a member of the armed forces of the United States or the
23 National Guard while performing official duties;

24 (iv) the temporary transfer or possession of a regulated firearm
25 if the person is:

26 1. participating in marksmanship training of a
27 recognized organization; and

28 2. under the supervision of a qualified instructor;

29 (v) a person who is required to possess a regulated firearm for
30 employment and who holds a permit under Subtitle 3 of this title; or

1 (vi) the possession of a firearm for self-defense or the defense of
2 others against a trespasser into the residence of the person in possession or into a
3 residence in which the person in possession is an invited guest.

4 (e) This section does not apply to a respondent transporting a regulated
5 firearm if the respondent is carrying a civil protective order requiring the surrender of
6 the regulated firearm and:

7 (1) the regulated firearm is unloaded;

8 (2) the respondent has notified the law enforcement unit, barracks, or
9 station that the regulated firearm is being transported in accordance with the civil
10 protective order; and

11 (3) the respondent transports the regulated firearm directly to the law
12 enforcement unit, barracks, or station.

13 **5-133.1.**

14 (A) **A PERSON MAY NOT POSSESS A FIREARM IF THE PERSON:**

15 (1) **HAS BEEN CONVICTED OF A FELONY;**

16 (2) **SUFFERS FROM A MENTAL DISORDER AS DEFINED IN §**
17 **10-101(F)(2) OF THE HEALTH - GENERAL ARTICLE AND HAS A HISTORY OF**
18 **VIOLENT BEHAVIOR AGAINST THE PERSON OR ANOTHER, UNLESS THE PERSON**
19 **HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS CAPABLE OF**
20 **POSSESSING A FIREARM WITHOUT UNDUE DANGER TO THE PERSON OR TO**
21 **ANOTHER; OR**

22 (3) **HAS BEEN CONFINED FOR MORE THAN 30 CONSECUTIVE DAYS**
23 **TO A FACILITY AS DEFINED IN § 10-101 OF THE HEALTH - GENERAL ARTICLE,**
24 **UNLESS THE PERSON HAS A PHYSICIAN'S CERTIFICATE THAT THE PERSON IS**
25 **CAPABLE OF POSSESSING A FIREARM WITHOUT UNDUE DANGER TO THE PERSON**
26 **OR TO ANOTHER.**

27 (B) (1) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
28 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT FOR NOT LESS**
29 **THAN 5 YEARS AND NOT EXCEEDING 15 YEARS.**

30 (2) **THE COURT MAY NOT SUSPEND ANY PART OF THE**
31 **MANDATORY MINIMUM SENTENCE OF 5 YEARS.**

1 **(3) EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE**
2 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR**
3 **PAROLE DURING THE MANDATORY MINIMUM SENTENCE.**

4 **(4) EACH VIOLATION OF THIS SECTION IS A SEPARATE CRIME.**

5 5-206.

6 (a) A person may not possess a rifle or shotgun if the person was previously
7 convicted of[:

8 (1)] a crime of violence[; or

9 (2) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, § 5-613,
10 or § 5-614 of the Criminal Law Article].

11 (b) A person who violates this section is guilty of a felony and on conviction is
12 subject to imprisonment not exceeding 15 years.

13 (c) Each violation of this subsection is a separate crime.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2012.