

SENATE BILL 943

E2
SB 530/15 – JPR

6lr1468
CF 6lr3545

By: **Senators Raskin, Benson, Feldman, Guzzone, Kelley, King, Lee, Madaleno,
Manno, Muse, Peters, Rosapepe, Waugh, and Young**

Introduced and read first time: February 5, 2016

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Firearms – Transfer**

3 FOR the purpose of requiring a court to inform a person convicted of a certain offense that
4 the person is prohibited from possessing a certain firearm under certain provisions
5 of law; requiring the court to advise the person that certain proof must be provided
6 to the court that certain firearms owned by the person or in the person's possession
7 have been transferred from the person's possession; providing for the procedure to
8 transfer certain firearms; requiring a person accepting a transferred firearm to issue
9 a certain notice or proof of transfers; requiring a person who is subject to a certain
10 order to file certain proof with the court or attest certain facts to the court within a
11 certain period; authorizing the disposal of a certain firearm under certain
12 circumstances; defining certain terms; and generally relating to firearms.

13 BY repealing and reenacting, without amendments,
14 Article – Criminal Procedure
15 Section 6–233
16 Annotated Code of Maryland
17 (2008 Replacement Volume and 2015 Supplement)

18 BY adding to
19 Article – Criminal Procedure
20 Section 6–234
21 Annotated Code of Maryland
22 (2008 Replacement Volume and 2015 Supplement)

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

25 **Article – Criminal Procedure**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 6–233.

2 (a) In this section, “domestically related crime” means a crime committed by a
3 defendant against a victim who is a person eligible for relief, as defined in § 4–501 of the
4 Family Law Article, or who had a sexual relationship with the defendant within 12 months
5 before the commission of the crime.

6 (b) (1) If a defendant is convicted of or receives a probation before judgment
7 disposition for a crime, on request of the State’s Attorney, the court shall make a finding of
8 fact, based on evidence produced at trial, as to whether the crime is a domestically related
9 crime.

10 (2) The State has the burden of proving by a preponderance of the evidence
11 that the crime is a domestically related crime.

12 (c) If the court finds that the crime is a domestically related crime under
13 subsection (b) of this section, that finding shall become part of the court record for purposes
14 of reporting to the Criminal Justice Information System Central Repository under §
15 10–215 of this article.

16 **6–234.**

17 (A) (1) **IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
18 **INDICATED.**

19 (2) **“CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 5–101 OF**
20 **THE PUBLIC SAFETY ARTICLE.**

21 (3) **“DISQUALIFYING CRIME” HAS THE MEANING STATED IN § 5–101**
22 **OF THE PUBLIC SAFETY ARTICLE.**

23 (4) **“DOMESTICALLY RELATED CRIME” HAS THE MEANING STATED IN**
24 **§ 6–233 OF THIS SUBTITLE.**

25 (B) (1) **THE COURT SHALL INFORM A PERSON CONVICTED OF A FELONY**
26 **OR A DISQUALIFYING CRIME THAT IS A DOMESTICALLY RELATED CRIME THAT THE**
27 **PERSON IS PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5–133**
28 **OF THE PUBLIC SAFETY ARTICLE.**

29 (2) **THE COURT SHALL INFORM A PERSON RECEIVING A PROBATION**
30 **BEFORE JUDGMENT FOR A DOMESTICALLY RELATED CRIME THAT THE PERSON IS**
31 **PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5–133 OF THE**
32 **PUBLIC SAFETY ARTICLE.**

1 **(3) THE COURT SHALL INFORM A PERSON CONVICTED OF A**
2 **DOMESTICALLY RELATED CRIME THAT IS A DISQUALIFYING CRIME THAT THE**
3 **PERSON IS PROHIBITED FROM POSSESSING A RIFLE OR SHOTGUN UNDER § 5-205 OF**
4 **THE PUBLIC SAFETY ARTICLE.**

5 **(C) (1) THE COURT SHALL FURTHER ADVISE THE PERSON THAT PROOF**
6 **MUST BE PROVIDED TO THE COURT, IN ACCORDANCE WITH THIS SECTION, THAT ALL**
7 **FIREARMS OWNED BY THE PERSON OR IN THE PERSON'S POSSESSION THAT VIOLATE**
8 **THE PROHIBITIONS DESCRIBED IN SUBSECTION (B) OF THIS SECTION HAVE BEEN**
9 **TRANSFERRED FROM THE PERSON'S POSSESSION.**

10 **(2) (I) A TRANSFER OF A FIREARM UNDER THIS SUBSECTION**
11 **SHALL BE MADE WITHIN 2 DAYS AFTER THE CONVICTION OR ENTRY OF PROBATION**
12 **BEFORE JUDGMENT TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR TO A**
13 **FEDERALLY LICENSED FIREARMS DEALER.**

14 **(II) A PERSON PROHIBITED FROM POSSESSING A FIREARM**
15 **UNDER § 5-133 OR § 5-206 OF THE PUBLIC SAFETY ARTICLE MAY DESIGNATE A**
16 **REPRESENTATIVE TO TRANSFER A FIREARM TO A STATE OR LOCAL LAW**
17 **ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER.**

18 **(3) A LAW ENFORCEMENT OFFICIAL OR DEALER ACCEPTING A**
19 **TRANSFERRED FIREARM UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL ISSUE**
20 **A WRITTEN NOTICE OF COMPLETED TRANSACTION OR OTHER PROOF OF TRANSFER**
21 **TO THE PERSON TRANSFERRING THE FIREARM.**

22 **(4) A WRITTEN NOTICE OF COMPLETED TRANSACTION OR PROOF OF**
23 **TRANSFER DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION SHALL INCLUDE:**

24 **(I) THE NAME OF THE PERSON TRANSFERRING THE FIREARM;**

25 **(II) THE DATE THE FIREARM WAS TRANSFERRED; AND**

26 **(III) THE SERIAL NUMBER, MAKE, AND MODEL OF THE FIREARM.**

27 **(D) WITHIN 5 BUSINESS DAYS AFTER BEING ADVISED OF THE REQUIREMENT**
28 **TO TRANSFER POSSESSION OF A FIREARM UNDER SUBSECTION (C) OF THIS SECTION,**
29 **A PERSON SHALL:**

30 **(1) FILE A COPY OF A WRITTEN NOTICE OF COMPLETED TRANSACTION**
31 **OR PROOF OF TRANSFER WITH THE COURT AND ATTEST THAT ALL FIREARMS OWNED**
32 **BY THE PERSON OR IN THE PERSON'S POSSESSION HAVE BEEN TRANSFERRED AND**
33 **THAT THE PERSON DOES NOT OWN OR POSSESS ANY OTHER FIREARMS; OR**

1 **(2) ATTEST TO THE COURT THAT THE PERSON DOES NOT OWN OR**
2 **POSSESS A FIREARM AND DID NOT OWN OR POSSESS A FIREARM AT THE TIME OF THE**
3 **ORDER.**

4 **(E) IF A PERSON TRANSFERS A FIREARM TO A LAW ENFORCEMENT AGENCY**
5 **UNDER THIS SECTION, THE AGENCY MAY DISPOSE OF THE FIREARM.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
7 1, 2016.