

**Department of Legislative Services**  
 Maryland General Assembly  
 2016 Session

**FISCAL AND POLICY NOTE**  
**Third Reader - Revised**

House Bill 1001

(Delegate Smith, *et al.*)

Judiciary

Judicial Proceedings

**Criminal Procedure - Firearms - Transfer**

This bill requires a court to inform a person “convicted of a disqualifying crime,” either verbally or in writing, that the person is prohibited from possessing regulated firearms, rifles, and shotguns. The court must advise the person that proof must be provided to the court that all firearms owned by the person or in the person’s possession that violate the bill’s prohibitions have been transferred from the person’s possession. Such a transfer must be made within two days after the conviction of a disqualifying crime to a State or local law enforcement official or to a federally licensed firearms dealer. The bill establishes procedures and requirements related to transfers and the disposal of transferred firearms. In addition, the bill establishes specified exceptions to the prohibitions against possession of a regulated firearm by a person who is otherwise prohibited from possession of a regulated firearm because the person has been convicted of a disqualifying crime.

The bill takes effect June 1, 2016.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$74,600 in FY 2017 only for the Judiciary to reprogram its computer system; it is assumed that the work cannot be completed in FY 2016 despite the bill’s effective date. While the Judiciary expects additional operational impacts on the courts, the bill is not expected to have a significant impact on the Department of State Police (DSP) or other State law enforcement agencies.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	74,600	0	0	0
Net Effect	\$0	(\$74,600)	\$0	\$0	\$0

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

**Local Effect:** Minimal. While the bill may have operational impacts on the circuit courts, it is assumed that the bill's requirements can be handled with the existing resources of the circuit courts and local law enforcement agencies.

**Small Business Effect:** Potential meaningful. Firearms dealers in the State must develop procedures and mechanisms for accepting transferred firearms.

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## Analysis

**Bill Summary:** A person prohibited from possessing a firearm may designate a representative to transfer a firearm to a State or local law enforcement official or to a federally licensed firearms dealer.

A law enforcement official or firearms dealer accepting a transferred firearm must issue a written notice of completed transaction or other proof of transfer to the person transferring the firearm. A written notice of completed transaction or proof of transfer must include (1) the name of the person transferring the firearm; (2) the date the firearm was transferred; and (3) the serial number, make, and model of the firearm. For a firearm manufactured before 1968, identifying marks may be substituted for the serial number.

Within five business days of being advised of the requirement to transfer possession of a firearm, a person must:

- file a copy of a written notice of completed transaction or proof of transfer with the court and attest that all firearms owned by the person or in the person's possession have been transferred and that the person does not own or possess any other firearms; or
- attest to the court that the person does not own or possess a firearm and did not own or possess a firearm at the time of the order.

If a person transfers a firearm to a law enforcement agency pursuant to the bill, the agency may dispose of the firearm.

The bill establishes an exception to the prohibition against wearing, carrying, or transporting a handgun by a person who has been convicted of a disqualifying crime, or that person's representative, if:

- the handgun is unloaded;
- it is within two days after the conviction of a disqualifying crime;

- the person, or the person’s representative, has notified law enforcement that the handgun is being transported to a law enforcement official or to a federally licensed firearms dealer for the purposes of transferring the firearm to the official or dealer; and
- the person, or the person’s representative, transports the handgun directly to the law enforcement official or firearms dealer.

Similar exceptions are provided for carrying or transporting a regulated firearm, including an assault weapon, and the possession of a rifle or shotgun for surrender to a law enforcement official or firearms dealer.

**Current Law:** A “disqualifying crime” means a crime of violence, felony, or a misdemeanor that carries a statutory penalty of more than two years. “Convicted of a disqualifying crime” includes a case in which a person received probation before judgment for a crime of violence and a case in which a person received probation before judgment in a domestically related crime. “Convicted of a disqualifying crime” does not include a case in which a person received a probation before judgment for second-degree assault or a crime which was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article.

State law provides an exception to the prohibition against wearing, carrying, or transporting a handgun by a person who is carrying a court order to surrender the weapon if the handgun is unloaded, the person has notified law enforcement that the handgun is being transported in accordance with the court order, and the person transports the handgun directly to the law enforcement unit. A similar exception is provided for the transportation of a rifle or shotgun for surrender to a law enforcement unit.

A “crime of violence” (under § 5-501 of the Public Safety Article) means (1) abduction; (2) first-degree arson; (3) first- or second-degree assault; (4) first-, second-, or third-degree burglary; (5) carjacking and armed carjacking; (6) first-degree escape; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) first- or second-degree murder; (12) first- or second-degree rape; (13) robbery; (14) robbery with a dangerous weapon; (15) first-, second-, or third-degree sexual offense; (16) home invasion; (17) an attempt to commit offenses 1 through 16; or (18) assault with the intent to commit offenses 1 through 16 or a crime punishable by imprisonment for more than one year.

A “domestically related crime” (under § 6-233 of the Criminal Procedure Article) is a crime committed by a defendant against a victim who is a “person eligible for relief” (under § 4-501 of the Family Law Article), or is a person who had a sexual relationship with the defendant within 12 months before the commission of the crime. Under the applicable provisions of the Family Law Article, a “person eligible for relief” includes (1) the current or former spouse of the respondent; (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent,

stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; (6) an individual who has a child in common with the respondent; or (7) an individual who has had a sexual relationship with the respondent within one year before the filing of the petition.

**State Expenditures:** Under the bill, the courts are responsible for tracking compliance and the filings of written notice of completed transactions, proof of transfers, and related affidavits. Thus, general fund expenditures increase by \$74,640 in fiscal 2017 only for the Judiciary to reprogram its computer system to track compliance. This estimate assumes that the bill requires approximately 871 computer programming hours. Although the bill takes effect June 1, 2016, the Judiciary advises that the changes may not be able to be made by that date. Thus, this analysis assumes that the computer programming costs are incurred in fiscal 2017.

The Judiciary further advises that the bill requires additional court processes to enforce the bill's transfer and filing requirements. While the extent of any increase in workload cannot be readily predicted, the Judiciary reports that the bill likely results in significant operational impact on the courts.

DSP advises that the bill's requirements can be handled with existing budgeted resources. It is assumed that other State law enforcement agencies can also implement the bill with existing budgeted resources.

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### **Additional Information**

**Prior Introductions:** SB 530 of 2015, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken on the bill. Its cross file, HB 857, received a hearing in the House Judiciary Committee but was subsequently withdrawn.

**Cross File:** SB 943 (Senator Raskin, *et al.*) - Judicial Proceedings.

**Information Source(s):** Montgomery and Prince George's counties, City of Takoma Park, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - February 24, 2016  
md/lgc Revised - House Third Reader - March 30, 2016

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