

SB0861/603927/1

BY: Delegate Buckel

AMENDMENTS TO SENATE BILL 861
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 8, before “establishing” insert “establishing that for a certain offense the use of a firearm does not include mere possession;”; and after line 18, insert:

“BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 4–204 and 14–101(a)

Annotated Code of Maryland

(2021 Replacement Volume and 2021 Supplement)”.

AMENDMENT NO. 2

On page 4, after line 13, insert:

“Article – Criminal Law

4–204.

(a) (1) [In this section, “firearm”] IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “FIREARM” means:

[(i)] 1. a weapon that expels, is designed to expel, or may readily be converted to expel a projectile by the action of an explosive; or

[(ii)] 2. the frame or receiver of such a weapon.

[(2)] (II) “Firearm” includes an antique firearm, handgun, rifle, shotgun, short–barreled rifle, short–barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

(3) “USE A FIREARM” DOES NOT INCLUDE THE MERE POSSESSION OF A FIREARM.

(b) A person may not use a firearm in the commission of a crime of violence, as defined in § 5–101 of the Public Safety Article, or any felony, whether the firearm is operable or inoperable at the time of the crime.

(c) (1) (i) A person who violates this section is guilty of a misdemeanor and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.

(ii) The court may not impose less than the minimum sentence of 5 years and, except as otherwise provided in § 4–305 of the Correctional Services Article, the person is not eligible for parole in less than 5 years.

(2) For each subsequent violation, the sentence shall be consecutive to and not concurrent with any other sentence imposed for the crime of violence or felony.

14–101.

(a) (1) In this section[, “crime of violence” means:

(1)] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “CRIME OF VIOLENCE” MEANS:

(I) abduction;

[(2)] (II) arson in the first degree;

[(3)] (III) kidnapping;

[(4)] (IV) manslaughter, except involuntary manslaughter;

[(5)] (V) mayhem;

[(6)] (VI) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;

[(7)] (VII) murder;

[(8)] (VIII) rape;

[(9)] (IX) robbery under § 3-402 or § 3-403 of this article;

[(10)] (X) carjacking;

[(11)] (XI) armed carjacking;

[(12)] (XII) sexual offense in the first degree;

[(13)] (XIII) sexual offense in the second degree;

[(14)] (XIV) use of a firearm in the commission of a felony [except possession with intent to distribute a controlled dangerous substance under § 5-602(2) of this article,] or other crime of violence;

[(15)] (XV) child abuse in the first degree under § 3-601 of this article;

[(16)] (XVI) sexual abuse of a minor under § 3-602 of this article if:

[(i)] 1. the victim is under the age of 13 years and the offender is an adult at the time of the offense; and

[(ii)] 2. the offense involved:

[1.] A. vaginal intercourse, as defined in § 3-301 of this article;

[2.] B. a sexual act, as defined in § 3-301 of this article;

[3.] C. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or

[4.] D. the intentional touching of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

[(17)] (XVII) home invasion under § 6–202(b) of this article;

[(18)] (XVIII) a felony offense under Title 3, Subtitle 11 of this article;

[(19)] (XIX) an attempt to commit any of the crimes described in items [(1) through (18)] (I) THROUGH (XVIII) of this [subsection] PARAGRAPH;

[(20)] (XX) continuing course of conduct with a child under § 3–315 of this article;

[(21)] (XXI) assault in the first degree;

[(22)] (XXII) assault with intent to murder;

[(23)] (XXIII) assault with intent to rape;

[(24)] (XXIV) assault with intent to rob;

[(25)] (XXV) assault with intent to commit a sexual offense in the first degree; and

[(26)] (XXVI) assault with intent to commit a sexual offense in the second degree.

(3) “USE OF A FIREARM” DOES NOT INCLUDE MERE POSSESSION OF A FIREARM.”.