

# HOUSE BILL 423

E2  
HB 356/20 – JUD

EMERGENCY BILL

2lr0124  
CF 2lr0123

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By: **The Speaker (By Request – Administration) and Delegates Anderton, Boteler, Buckel, Chisholm, Ghrist, Griffith, Hartman, Hornberger, Howard, Jacobs, Kipke, Kittleman, Krebs, Long, Mangione, Mautz, McComas, McKay, Metzgar, Morgan, Munoz, Novotny, Otto, Parrott, Reilly, Saab, Shoemaker, Szeliga, Thiam, and Wivell**

Introduced and read first time: January 19, 2022

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Firearms – Penalties and Procedures**  
3 **(Violent Firearms Offender Act of 2022)**

4 FOR the purpose of expanding the types of cases in which the State may appeal from a  
5 decision of a trial court under certain circumstances; establishing, altering, and  
6 clarifying penalties for and elements of certain firearm–related crimes; prohibiting  
7 a District Court commissioner from authorizing the pretrial release of a certain  
8 defendant charged with a certain firearm–related crime under certain  
9 circumstances; prohibiting a dealer or other person from selling, renting, loaning, or  
10 transferring a regulated firearm to a purchaser, lessee, borrower, or transferee if the  
11 dealer or other person has actual knowledge that the purchaser, lessee, borrower, or  
12 transferee was previously convicted of a certain crime or intends to use the regulated  
13 firearm for a certain purpose; altering a certain definition of “technical violation”  
14 applicable to parole and probation provisions; and generally relating to firearms.

15 BY renumbering

16 Article – Criminal Law  
17 Section 7–104(h) through (j), respectively  
18 to be Section 7–104(i) through (k), respectively  
19 Annotated Code of Maryland  
20 (2021 Replacement Volume and 2021 Supplement)

21 BY renumbering

22 Article – Public Safety  
23 Section 5–134(c) and (d), respectively  
24 to be Section 5–134(d) and (e), respectively  
25 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 (2018 Replacement Volume and 2021 Supplement)
- 2 BY repealing and reenacting, without amendments,  
3 Article – Correctional Services  
4 Section 6–101(a)  
5 Annotated Code of Maryland  
6 (2017 Replacement Volume and 2021 Supplement)
- 7 BY repealing and reenacting, with amendments,  
8 Article – Correctional Services  
9 Section 6–101(m)  
10 Annotated Code of Maryland  
11 (2017 Replacement Volume and 2021 Supplement)
- 12 BY repealing and reenacting, with amendments,  
13 Article – Courts and Judicial Proceedings  
14 Section 12–302(c)(4)  
15 Annotated Code of Maryland  
16 (2020 Replacement Volume and 2021 Supplement)
- 17 BY repealing and reenacting, with amendments,  
18 Article – Criminal Law  
19 Section 4–204, 4–306(b), 4–404, and 7–104(g)  
20 Annotated Code of Maryland  
21 (2021 Replacement Volume and 2021 Supplement)
- 22 BY adding to  
23 Article – Criminal Law  
24 Section 7–104(h)  
25 Annotated Code of Maryland  
26 (2021 Replacement Volume and 2021 Supplement)
- 27 BY repealing and reenacting, with amendments,  
28 Article – Criminal Law  
29 Section 7–104(j)  
30 Annotated Code of Maryland  
31 (2021 Replacement Volume and 2021 Supplement)  
32 (As enacted by Section 1 of this Act)
- 33 BY repealing and reenacting, without amendments,  
34 Article – Criminal Procedure  
35 Section 5–202(c)(1) and (d)(1)  
36 Annotated Code of Maryland  
37 (2018 Replacement Volume and 2021 Supplement)
- 38 BY repealing and reenacting, with amendments,  
39 Article – Criminal Procedure

1 Section 5–202(f)  
2 Annotated Code of Maryland  
3 (2018 Replacement Volume and 2021 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article – Public Safety  
6 Section 5–133(b) and (c), 5–134(b), 5–138, 5–141, 5–142, and 5–144  
7 Annotated Code of Maryland  
8 (2018 Replacement Volume and 2021 Supplement)

9 BY adding to  
10 Article – Public Safety  
11 Section 5–134(c)  
12 Annotated Code of Maryland  
13 (2018 Replacement Volume and 2021 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That Section(s) 7–104(h) through (j), respectively, of Article – Criminal Law of the  
16 Annotated Code of Maryland be renumbered to be Section(s) 7–104(i) through (k),  
17 respectively.

18 SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 5–134(c) and (d),  
19 respectively, of Article – Public Safety of the Annotated Code of Maryland be renumbered  
20 to be Section(s) 5–134(d) and (e), respectively.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read  
22 as follows:

23 **Article – Correctional Services**

24 6–101.

25 (a) In this subtitle the following words have the meanings indicated.

26 (m) “Technical violation” means a violation of a condition of probation, parole, or  
27 mandatory supervision that does not involve:

28 (1) an arrest or a summons issued by a commissioner on a statement of  
29 charges filed by a law enforcement officer;

30 (2) a violation of a criminal prohibition other than a minor traffic offense;

31 (3) a violation of a no–contact or stay–away order; [or]

32 (4) absconding; **OR**

33 **(5) USE OR POSSESSION OF A FIREARM.**

1 **Article – Courts and Judicial Proceedings**

2 12–302.

3 (c) (4) (i) [In a case involving] **THIS PARAGRAPH APPLIES IN A CASE:**

4 1. **INVOLVING** a crime of violence as defined in § 14–101 of  
5 the Criminal Law Article[, and in cases under §§ 5–602 through 5–609 and §§ 5–612  
6 through 5–614];

7 2. **UNDER § 5–602, § 5–603, § 5–604, § 5–605, § 5–606, §**  
8 **5–607, § 5–608, § 5–609, § 5–612, § 5–613, OR § 5–614** of the Criminal Law Article[.];

9 3. **UNDER § 5–621 OR § 5–622 OF THE CRIMINAL LAW**  
10 **ARTICLE; OR**

11 4. **UNDER § 5–133, § 5–133.1, § 5–134, § 5–136, § 5–138,**  
12 **§ 5–140, § 5–141, § 5–142, § 5–205, OR § 5–206 OF THE PUBLIC SAFETY ARTICLE.**

13 **(II) FOR CASES LISTED IN SUBPARAGRAPH (I) OF THIS**  
14 **PARAGRAPH**, the State may appeal from a decision of a trial court that excludes evidence  
15 offered by the State or requires the return of property alleged to have been seized in  
16 violation of the Constitution of the United States, the Maryland Constitution, or the  
17 Maryland Declaration of Rights.

18 [(ii)] **(III)** The appeal shall be made before jeopardy attaches to the  
19 defendant. However, in all cases the appeal shall be taken no more than 15 days after the  
20 decision has been rendered and shall be diligently prosecuted.

21 [(iii)] **(IV)** Before taking the appeal, the State shall certify to the  
22 court that the appeal is not taken for purposes of delay and that the evidence excluded or  
23 the property required to be returned is substantial proof of a material fact in the proceeding.  
24 The appeal shall be heard and the decision rendered within 120 days of the time that the  
25 record on appeal is filed in the appellate court. Otherwise, the decision of the trial court  
26 shall be final.

27 [(iv)] **(V)** Except in a homicide case, if the State appeals on the basis  
28 of this paragraph, and if on final appeal the decision of the trial court is affirmed, the  
29 charges against the defendant shall be dismissed in the case from which the appeal was  
30 taken. In that case, the State may not prosecute the defendant on those specific charges or  
31 on any other related charges arising out of the same incident.

32 [(v)] **(VI)** 1. Except as provided in subsubparagraph 2 of this  
33 subparagraph, pending the prosecution and determination of an appeal taken under this  
34 paragraph or paragraph (2) of this subsection, the defendant shall be released on personal



1                                   **2. FOR A SECOND OR SUBSEQUENT OFFENSE, TO**  
2 **IMPRISONMENT FOR NOT LESS THAN 10 YEARS AND NOT EXCEEDING 20 YEARS.**

3                                   (ii) **[The] NOTWITHSTANDING § 14-102 OF THIS ARTICLE:**

4                                   **1. THE court may not impose less than the MANDATORY**  
5 **minimum sentence of 5 years [and, except] FOR A SENTENCE IMPOSED UNDER**  
6 **SUBPARAGRAPH (I)1 OF THIS PARAGRAPH; AND**

7                                   **2. THE COURT MAY NOT IMPOSE LESS THAN THE**  
8 **MANDATORY MINIMUM SENTENCE OF 10 YEARS FOR A SENTENCE IMPOSED UNDER**  
9 **SUBPARAGRAPH (I)2 OF THIS PARAGRAPH.**

10                                   **(III) THE MANDATORY MINIMUM SENTENCE REQUIRED UNDER**  
11 **SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT BE SUSPENDED.**

12                                   **(IV) EXCEPT** as otherwise provided in § 4-305 of the Correctional  
13 **Services Article, the person is not eligible for parole in less than [5 years] THE**  
14 **MANDATORY MINIMUM SENTENCE.**

15                                   (2) **[For each subsequent violation, the] THE** sentence shall be consecutive  
16 **to and not concurrent with any other sentence imposed for the crime of violence or felony.**  
17 **4-306.**

18                                   (b) (1) A person who uses an assault weapon, a rapid fire trigger activator, or  
19 a magazine that has a capacity of more than 10 rounds of ammunition, in the commission  
20 of a felony or a crime of violence as defined in § 5-101 of the Public Safety Article is guilty  
21 of a **[misdemeanor] FELONY** and on conviction, in addition to any other sentence imposed  
22 for the felony or crime of violence, shall be sentenced under this subsection.

23                                   (2) (i) For a first violation, the person shall be sentenced to  
24 imprisonment for not less than 5 years and not exceeding 20 years.

25                                   (ii) **[The] NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE**  
26 **court may not impose less than the minimum sentence of 5 years.**

27                                   (iii) The mandatory minimum sentence of 5 years may not be  
28 suspended.

29                                   (iv) Except as otherwise provided in § 4-305 of the Correctional  
30 Services Article, the person is not eligible for parole in less than 5 years.

31                                   (3) (i) For each subsequent violation, the person shall be sentenced to  
32 imprisonment for not less than 10 years and not exceeding 20 years.

1 (ii) [The] **NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE**  
2 court may not impose less than the minimum sentence of 10 years.

3 (iii) **THE MANDATORY MINIMUM SENTENCE OF 10 YEARS MAY**  
4 **NOT BE SUSPENDED.**

5 (iv) **EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE**  
6 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN**  
7 **LESS THAN 10 YEARS.**

8 [(iii)] (4) A sentence imposed under this [paragraph] **SUBSECTION**  
9 shall be consecutive to and not concurrent with any other sentence imposed for the felony  
10 or crime of violence.

11 4-404.

12 (a) A person may not use or possess a machine gun in the commission or  
13 attempted commission of a **FELONY OR** crime of violence.

14 (b) (1) A person who violates this section is guilty of a felony and on conviction,  
15 **IN ADDITION TO ANY OTHER PENALTY IMPOSED FOR THE CRIME OF VIOLENCE OR**  
16 **FELONY**, is subject to [imprisonment not exceeding 20 years]:

17 (i) **FOR A FIRST OFFENSE, IMPRISONMENT FOR NOT LESS THAN**  
18 **5 YEARS AND NOT EXCEEDING 20 YEARS; AND**

19 (ii) **FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT**  
20 **FOR NOT LESS THAN 10 YEARS AND NOT EXCEEDING 20 YEARS.**

21 (2) (i) **NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT**  
22 **MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 5 YEARS FOR**  
23 **A SENTENCE IMPOSED UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION.**

24 (ii) **NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT**  
25 **MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 10 YEARS**  
26 **FOR A SENTENCE IMPOSED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

27 (3) **A MANDATORY MINIMUM SENTENCE UNDER PARAGRAPH (1) OF**  
28 **THIS SUBSECTION MAY NOT BE SUSPENDED.**

29 (4) **EXCEPT AS OTHERWISE PROVIDED IN § 4-305 OF THE**  
30 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN**  
31 **LESS THAN THE MANDATORY MINIMUM SENTENCE.**

1           **(5) THE SENTENCE SHALL BE CONSECUTIVE TO AND NOT**  
2 **CONCURRENT WITH ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE**  
3 **OR FELONY.**

4 7-104.

5           (g) (1) **THIS SUBSECTION DOES NOT APPLY TO THEFT OF A FIREARM.**

6           **(2)** A person convicted of theft of property or services with a value of:

7                   (i) at least \$1,500 but less than \$25,000 is guilty of a felony and:

8                               1. is subject to imprisonment not exceeding 5 years or a fine  
9 not exceeding \$10,000 or both; and

10                              2. shall restore the property taken to the owner or pay the  
11 owner the value of the property or services;

12                   (ii) at least \$25,000 but less than \$100,000 is guilty of a felony and:

13                              1. is subject to imprisonment not exceeding 10 years or a fine  
14 not exceeding \$15,000 or both; and

15                              2. shall restore the property taken to the owner or pay the  
16 owner the value of the property or services; or

17                   (iii) \$100,000 or more is guilty of a felony and:

18                              1. is subject to imprisonment not exceeding 20 years or a fine  
19 not exceeding \$25,000 or both; and

20                              2. shall restore the property taken to the owner or pay the  
21 owner the value of the property or services.

22           **[(2)] (3)** Except as provided in paragraph **[(3)] (4)** of this subsection, a  
23 person convicted of theft of property or services with a value of at least \$100 but less than  
24 \$1,500, is guilty of a misdemeanor and:

25                   (i) is subject to:

26                              1. for a first conviction, imprisonment not exceeding 6  
27 months or a fine not exceeding \$500 or both; and

28                              2. for a second or subsequent conviction, imprisonment not  
29 exceeding 1 year or a fine not exceeding \$500 or both; and



1 (ii) shall restore the property taken to the owner or pay the owner  
2 the value of the property or services.

3 ~~[(3)]~~ (4) A person convicted of theft of property or services with a value of  
4 less than \$100 is guilty of a misdemeanor and:

5 (i) is subject to imprisonment not exceeding 90 days or a fine not  
6 exceeding \$500 or both; and

7 (ii) shall restore the property taken to the owner or pay the owner  
8 the value of the property or services.

9 ~~[(4)]~~ (5) Subject to paragraph ~~[(5)]~~ (6) of this subsection, a person who  
10 has four or more prior convictions under this subtitle and who is convicted of theft of  
11 property or services with a value of less than \$1,500 under paragraph ~~[(2)]~~ (3) of this  
12 subsection is guilty of a misdemeanor and:

13 (i) is subject to imprisonment not exceeding 5 years or a fine not  
14 exceeding \$5,000 or both; and

15 (ii) shall restore the property taken to the owner or pay the owner  
16 the value of the property or services.

17 ~~[(5)]~~ (6) The court may not impose the penalties under paragraph ~~[(4)]~~  
18 (5) of this subsection unless the State's Attorney serves notice on the defendant or the  
19 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least  
20 15 days before trial that:

21 (i) the State will seek the penalties under paragraph ~~[(4)]~~ (5) of this  
22 subsection; and

23 (ii) lists the alleged prior convictions.

24 **(H) (1) A PERSON CONVICTED OF THEFT OF A FIREARM, INCLUDING AN**  
25 **ANTIQUE FIREARM OR A REPLICA OF AN ANTIQUE FIREARM, IS GUILTY OF A FELONY**  
26 **AND:**

27 **(I) 1. FOR A FIRST CONVICTION, IS SUBJECT TO**  
28 **IMPRISONMENT FOR NOT LESS THAN 2 YEARS AND NOT EXCEEDING 10 YEARS AND A**  
29 **FINE NOT EXCEEDING \$2,500; AND**

30 **2. FOR A SECOND OR SUBSEQUENT CONVICTION, IS**  
31 **SUBJECT TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 15**  
32 **YEARS AND A FINE NOT EXCEEDING \$10,000; AND**

1                   **(II) SHALL RESTORE THE FIREARM TO THE OWNER OR PAY THE**  
2 **OWNER THE VALUE OF THE FIREARM.**

3                   **(2) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY**  
4 **NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF:**

5                   **(I) FOR A FIRST CONVICTION, 2 YEARS; AND**

6                   **(II) FOR A SECOND OR SUBSEQUENT CONVICTION, 5 YEARS.**

7                   **(3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY**  
8 **MINIMUM SENTENCE OF:**

9                   **(I) FOR A FIRST CONVICTION, 2 YEARS; AND**

10                   **(II) FOR A SECOND OR SUBSEQUENT CONVICTION, 5 YEARS.**

11                   **(4) A SENTENCE IMPOSED UNDER PARAGRAPH (1) OF THIS**  
12 **SUBSECTION SHALL BE SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR**  
13 **ANY OTHER OFFENSE.**

14           (j) An action or prosecution for a violation of subsection [(g)(2) or (3)] **(G)(3) OR**  
15 **(4)** of this section shall be commenced within 2 years after the commission of the crime.

#### 16                   **Article – Criminal Procedure**

17 5-202.

18           (c) (1) A District Court commissioner may not authorize the pretrial release of  
19 a defendant charged with a crime of violence if the defendant has been previously convicted:

20                   (i) in this State of a crime of violence;

21                   (ii) in any other jurisdiction of a crime that would be a crime of  
22 violence if committed in this State; or

23                   (iii) of an offense listed in subsection (f)(1) of this section.

24           (d) (1) A District Court commissioner may not authorize the pretrial release of  
25 a defendant charged with committing one of the following crimes while the defendant was  
26 released on bail or personal recognizance for a pending prior charge of committing one of  
27 the following crimes:

28                   (i) aiding, counseling, or procuring arson in the first degree under §  
29 6-102 of the Criminal Law Article;

- 1 (ii) arson in the second degree or attempting, aiding, counseling, or  
2 procuring arson in the second degree under § 6–103 of the Criminal Law Article;
- 3 (iii) burglary in the first degree under § 6–202 of the Criminal Law  
4 Article;
- 5 (iv) burglary in the second degree under § 6–203 of the Criminal Law  
6 Article;
- 7 (v) burglary in the third degree under § 6–204 of the Criminal Law  
8 Article;
- 9 (vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal  
10 Law Article;
- 11 (vii) a crime that relates to a destructive device under § 4–503 of the  
12 Criminal Law Article;
- 13 (viii) a crime that relates to a controlled dangerous substance under  
14 §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;
- 15 (ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal  
16 Law Article; and
- 17 (x) a crime of violence.

18 (f) (1) **(I)** A District Court commissioner may not authorize the pretrial  
19 release of a defendant charged with [one of the following crimes] **A CRIME LISTED IN**  
20 **SUBPARAGRAPH (II) OF THIS PARAGRAPH** if the defendant:

21 **1.** has previously been convicted of a crime of violence or [one  
22 of the following crimes:] **A CRIME LISTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH;**  
23 **OR**

24 **2. IS ON PRETRIAL RELEASE FOR A CRIME OF VIOLENCE**  
25 **OR A CRIME LISTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH.**

26 **(II) THIS SUBSECTION APPLIES TO THE FOLLOWING CRIMES:**

27 **[(i)] 1.** wearing, carrying, or transporting a handgun under §  
28 4–203 of the Criminal Law Article;

29 **[(ii)] 2.** use of a handgun or an antique firearm in commission of a  
30 crime under § 4–204 of the Criminal Law Article;

1 [(iii)] 3. violating prohibitions relating to assault weapons under §  
2 4–303 of the Criminal Law Article;

3 [(iv)] 4. use of a machine gun in a crime of violence under § 4–404  
4 of the Criminal Law Article;

5 [(v)] 5. use of a machine gun for an aggressive purpose under §  
6 4–405 of the Criminal Law Article;

7 [(vi)] 6. use of a weapon as a separate crime under § 5–621 of the  
8 Criminal Law Article;

9 7. **POSSESSING, USING, OWNING, CARRYING, OR**  
10 **TRANSPORTING A FIREARM BY A PERSON WITH A PRIOR DRUG CONVICTION UNDER**  
11 **§ 5–622 OF THE CRIMINAL LAW ARTICLE;**

12 [(vii)] 8. possession of a regulated firearm under § 5–133 of the  
13 Public Safety Article;

14 9. **SALE, RENTAL, OR TRANSFER OF A REGULATED**  
15 **FIREARM UNDER § 5–134 OF THE PUBLIC SAFETY ARTICLE;**

16 10. **STRAW PURCHASE OF A REGULATED FIREARM UNDER**  
17 **§ 5–136 OF THE PUBLIC SAFETY ARTICLE;**

18 11. **SALE, TRANSFER, OR DISPOSAL OF A STOLEN**  
19 **REGULATED FIREARM UNDER § 5–138 OF THE PUBLIC SAFETY ARTICLE;**

20 [(viii)] 12. transporting a regulated firearm for unlawful sale or  
21 trafficking under § 5–140 of the Public Safety Article; [or]

22 13. **KNOWING PARTICIPATION IN A STRAW PURCHASE OF**  
23 **A REGULATED FIREARM UNDER § 5–141 OF THE PUBLIC SAFETY ARTICLE;**

24 14. **REMOVAL OR ALTERATION OF THE MANUFACTURER’S**  
25 **IDENTIFICATION MARK OR NUMBER ON A FIREARM UNDER § 5–142 OF THE PUBLIC**  
26 **SAFETY ARTICLE;**

27 [(ix)] 15. possession of a rifle or shotgun by a person with a mental  
28 disorder under § 5–205 of the Public Safety Article;

29 16. **POSSESSION OF A RIFLE OR SHOTGUN BY A PERSON**  
30 **WITH A PRIOR CONVICTION UNDER § 5–206 OF THE PUBLIC SAFETY ARTICLE; OR**

31 17. **A CRIME IN ANY OTHER JURISDICTION THAT WOULD**

1 BE A CRIME UNDER ITEMS 1 THROUGH 16 OF THIS SUBPARAGRAPH IF COMMITTED  
2 IN THIS STATE.

3 (2) (i) A judge may authorize the pretrial release of a defendant  
4 described in paragraph (1) of this subsection on:

5 1. suitable bail;

6 2. any other conditions that will reasonably ensure that the  
7 defendant will not flee or pose a danger to another person or the community; or

8 3. both bail and other conditions described under item 2 of  
9 this subparagraph.

10 (ii) When a defendant described in paragraph (1) of this subsection  
11 is presented to the court under Maryland Rule 4–216(f), the judge shall order the continued  
12 detention of the defendant if the judge determines that neither suitable bail nor any  
13 condition or combination of conditions will reasonably ensure that the defendant will not  
14 flee or pose a danger to another person or the community before the trial.

15 (3) There is a rebuttable presumption that a defendant described in  
16 paragraph (1) of this subsection will flee and pose a danger to another person or the  
17 community.

## 18 Article – Public Safety

19 5–133.

20 (b) (1) Subject to § 5–133.3 of this subtitle, a person may not possess a  
21 regulated firearm if the person:

22 [(1)] (I) has been convicted of a disqualifying crime;

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

25 [(3)] (III) is a fugitive from justice;

26 [(4)] (IV) is a habitual drunkard;

27 [(5)] (V) is addicted to a controlled dangerous substance or is a habitual  
28 user;

29 [(6)] (VI) suffers from a mental disorder as defined in § 10–101(i)(2) of the  
30 Health – General Article and has a history of violent behavior against the person or  
31 another;

1            [(7)] (VII) has been found incompetent to stand trial under § 3–106 of the  
2 Criminal Procedure Article;

3            [(8)] (VIII) has been found not criminally responsible under § 3–110 of the  
4 Criminal Procedure Article;

5            [(9)] (IX) has been voluntarily admitted for more than 30 consecutive days  
6 to a facility as defined in § 10–101 of the Health – General Article;

7            [(10)] (X) has been involuntarily committed to a facility as defined in §  
8 10–101 of the Health – General Article;

9            [(11)] (XI) is under the protection of a guardian appointed by a court under  
10 § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the  
11 appointment of a guardian is solely a result of a physical disability;

12           [(12)] (XII) except as provided in subsection (e) of this section, is a  
13 respondent against whom:

14           [(i)] 1. a current non ex parte civil protective order has been  
15 entered under § 4–506 of the Family Law Article; or

16           [(ii)] 2. an order for protection, as defined in § 4–508.1 of the  
17 Family Law Article, has been issued by a court of another state or a Native American tribe  
18 and is in effect; or

19           [(13)] (XIII) if under the age of 30 years at the time of possession, has been  
20 adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if  
21 committed by an adult.

22           **(2) (I) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,**  
23 **A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON**  
24 **CONVICTION IS SUBJECT TO:**

25           **1. FOR A FIRST OFFENSE, IMPRISONMENT NOT**  
26 **EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH; AND**

27           **2. FOR A SECOND OR SUBSEQUENT OFFENSE,**  
28 **IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR**  
29 **BOTH.**

30           **(II) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE**  
31 **CRIME.**

1                   **(III) A PERSON CONVICTED UNDER THIS SUBSECTION IS NOT**  
2 **PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §**  
3 **8-507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE**  
4 **SENTENCE.**

5           (c)   (1)   A person may not possess a regulated firearm if the person was  
6 previously convicted of:

7                   (i)   a crime of violence;

8                   (ii)   a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, §  
9 5-613, § 5-614, § 5-621, [or] § 5-622, **§ 9-803, § 9-804, OR § 9-805** of the Criminal Law  
10 Article; or

11                   (iii)   an offense under the laws of another state or the United States  
12 that would constitute one of the crimes listed in item (i) or (ii) of this paragraph if committed  
13 in this State.

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

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

19                   (iii)   Except as otherwise provided in § 4-305 of the Correctional  
20 Services Article, the person is not eligible for parole during the mandatory minimum  
21 sentence.

22           (3)   At the time of the commission of the offense, if a period of more than 5  
23 years has elapsed since the person completed serving the sentence for the most recent  
24 conviction under paragraph (1)(i) or (ii) of this subsection, including all imprisonment,  
25 mandatory supervision, probation, and parole:

26                   (i)   the imposition of the mandatory minimum sentence is within the  
27 discretion of the court; and

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

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

32           (5)   A person convicted under this subsection is not prohibited from  
33 participating in a drug treatment program under § 8-507 of the Health – General Article  
34 because of the length of the sentence.

1 5–134.

2 (b) A dealer or other person may not sell, rent, loan, or transfer a regulated  
3 firearm to a purchaser, lessee, borrower, or transferee who the dealer or other person knows  
4 or has reasonable cause to believe:

5 (1) is under the age of 21 years, unless the regulated firearm is loaned to a  
6 borrower who may possess the regulated firearm under § 5–133(d) of this subtitle;

7 (2) has been convicted of a disqualifying crime;

8 (3) has been convicted of a conspiracy to commit a felony;

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

11 (5) is a fugitive from justice;

12 (6) is a habitual drunkard;

13 (7) is addicted to a controlled dangerous substance or is a habitual user;

14 (8) suffers from a mental disorder as defined in § 10–101(i)(2) of the Health  
15 – General Article, and has a history of violent behavior against the purchaser, lessee,  
16 borrower, or transferee or another, unless the purchaser, lessee, borrower, or transferee  
17 possesses a physician’s certificate that the recipient is capable of possessing a regulated  
18 firearm without undue danger to the purchaser, lessee, borrower, or transferee or to  
19 another;

20 (9) has been confined for more than 30 consecutive days to a facility as  
21 defined in § 10–101 of the Health – General Article, unless the purchaser, lessee, borrower,  
22 or transferee possesses a physician’s certificate that the recipient is capable of possessing  
23 a regulated firearm without undue danger to the purchaser, lessee, borrower, or transferee  
24 or to another;

25 (10) is a respondent against whom a current non ex parte civil protective  
26 order has been entered under § 4–506 of the Family Law Article;

27 (11) if under the age of 30 years at the time of the transaction, has been  
28 adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if  
29 committed by an adult;

30 (12) is visibly under the influence of alcohol or drugs;

31 (13) is a participant in a straw purchase;

32 (14) subject to subsection [(c)] (D) of this section for a transaction under this



1 subsection that is made on or after January 1, 2002, has not completed a certified firearms  
2 safety training course conducted free of charge by the Police Training and Standards  
3 Commission or that meets standards established by the Police Training and Standards  
4 Commission under § 3-207 of this article; or

5 (15) intends to use the regulated firearm to:

6 (i) commit a crime; or

7 (ii) cause harm to the purchaser, lessee, transferee, or recipient or  
8 another person.

9 (C) (1) A DEALER OR OTHER PERSON MAY NOT SELL, RENT, LOAN, OR  
10 TRANSFER A REGULATED FIREARM TO A PURCHASER, LESSEE, BORROWER, OR  
11 TRANSFEREE IF THE DEALER OR OTHER PERSON HAS ACTUAL KNOWLEDGE THAT  
12 THE PURCHASER, LESSEE, BORROWER, OR TRANSFEREE:

13 (I) WAS PREVIOUSLY CONVICTED OF:

14 1. A CRIME OF VIOLENCE;

15 2. A VIOLATION OF § 5-602, § 5-603, § 5-604, § 5-605, §  
16 5-612, § 5-613, § 5-614, § 5-621, § 5-622, § 9-803, § 9-804, OR § 9-805 OF THE  
17 CRIMINAL LAW ARTICLE; OR

18 3. AN OFFENSE UNDER THE LAWS OF ANOTHER STATE  
19 OR THE UNITED STATES THAT WOULD CONSTITUTE ONE OF THE CRIMES LISTED IN  
20 ITEM 1 OR 2 OF THIS ITEM IF COMMITTED IN THIS STATE; OR

21 (II) INTENDS TO USE THE REGULATED FIREARM TO:

22 1. COMMIT A CRIME; OR

23 2. CAUSE HARM TO THE PURCHASER, LESSEE,  
24 TRANSFEREE, OR RECIPIENT OR ANOTHER PERSON.

25 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A  
26 FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15  
27 YEARS.

28 (3) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE CRIME.

29 (4) A PERSON CONVICTED UNDER THIS SUBSECTION IS NOT  
30 PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §

1 **8-507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE**  
2 **SENTENCE.**

3 **(5) A CHARGE OF VIOLATING THIS SUBSECTION ALSO CHARGES A**  
4 **DEFENDANT WITH VIOLATING SUBSECTION (B) OF THIS SECTION.**

5 5-138.

6 **(A) A person may not possess, sell, transfer, or otherwise dispose of a stolen**  
7 **regulated firearm if the person knows or has reasonable cause to believe that the regulated**  
8 **firearm has been stolen.**

9 **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND:**

10 **(1) (I) FOR A FIRST CONVICTION, IS SUBJECT TO IMPRISONMENT**  
11 **FOR NOT LESS THAN 2 YEARS AND NOT EXCEEDING 10 YEARS AND A FINE NOT**  
12 **EXCEEDING \$2,500; AND**

13 **(II) FOR A SECOND OR SUBSEQUENT CONVICTION, IS SUBJECT**  
14 **TO IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 15 YEARS**  
15 **AND A FINE NOT EXCEEDING \$10,000; AND**

16 **(2) SHALL RESTORE THE FIREARM TO THE OWNER OR PAY THE**  
17 **OWNER THE VALUE OF THE FIREARM.**

18 **(C) (1) NOTWITHSTANDING § 14-102 OF THE CRIMINAL LAW ARTICLE,**  
19 **THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF:**

20 **(I) FOR A FIRST CONVICTION, 2 YEARS; AND**

21 **(II) FOR A SECOND OR SUBSEQUENT CONVICTION, 5 YEARS.**

22 **(2) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY**  
23 **MINIMUM SENTENCE OF:**

24 **(I) FOR A FIRST CONVICTION, 2 YEARS; AND**

25 **(II) FOR A SECOND OR SUBSEQUENT CONVICTION, 5 YEARS.**

26 **(3) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE**  
27 **FROM AND CONSECUTIVE TO A SENTENCE FOR ANY OTHER OFFENSE.**

28 5-141.

1 (a) A dealer or other person may not be a knowing participant in a straw purchase  
2 of a regulated firearm for a minor or for a person prohibited by law from possessing a  
3 regulated firearm.

4 (b) **(1)** A person who violates this section is guilty of a [misdemeanor] **FELONY**  
5 and on conviction is subject to imprisonment **FOR NOT LESS THAN 5 YEARS AND** not  
6 exceeding [10] **15** years [or] **AND** a fine not exceeding \$25,000 [or both].

7 **(2) NOTWITHSTANDING § 14–102 OF THE CRIMINAL LAW ARTICLE,**  
8 **THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE**  
9 **UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

10 **(3) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY**  
11 **MINIMUM SENTENCE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

12 **(4) EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE**  
13 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE**  
14 **DURING THE MANDATORY MINIMUM SENTENCE.**

15 (c) Each violation of this section is a separate crime.

16 5–142.

17 (a) A person may not obliterate, remove, change, or alter the manufacturer's  
18 identification mark or number on a firearm.

19 (b) If on trial for a violation of this section possession of the firearm by the  
20 defendant is established, the defendant is presumed to have obliterated, removed, changed,  
21 or altered the manufacturer's identification mark or number on the firearm.

22 **(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR**  
23 **AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 10 YEARS OR**  
24 **A FINE NOT EXCEEDING \$10,000 OR BOTH.**

25 5–144.

26 (a) Except as otherwise provided in this subtitle, a dealer or other person [may  
27 not:

28 (1) knowingly participate in the illegal sale, rental, transfer, purchase,  
29 possession, or receipt of a regulated firearm in violation of] **WHO KNOWINGLY VIOLATES**  
30 **A PROVISION OF** this subtitle[; or

31 (2) knowingly violate § 5–142 of this subtitle.

1           (b) A person who violates this section] is guilty of a misdemeanor and on  
2 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000  
3 or both.

4           [(c) (B) Each violation of this [section] SUBTITLE is a separate crime.

5           SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
6 measure, is necessary for the immediate preservation of the public health or safety, has  
7 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
8 each of the two Houses of the General Assembly, and shall take effect from the date it is  
9 enacted.