



**Senate Bill 656
Criminal Law - Failure to Properly Store Firearm - Death of Another**

UNFAVORABLE

Senate Bill 656 adds “WARD” as new category of persons whose access to a firearm must be prevented by the owner of the firearm. The term “ward” is defined as an adult person who is the subject of a legal guardianship and who is prohibited from possessing a firearm.

The language of the Bill does not clarify why the person is restricted, nor does it address whether the prohibition is based upon State law or Federal law. With the recent decriminalization of recreational marijuana, persons who are users of marijuana may not be prohibited from possessing firearms under State law but remain prohibited under Federal law.

Under §4-104 (a)(c)(2) “A PERSON MAY NOT VIOLATE PARAGRAPH (1) OF THIS SUBSECTION RESULTING IN THE CHILD OR WARD USING THE FIREARM AND CAUSING THE DEATH OF ANOTHER.”

The language of §4-104 (a)(c)(2) is vague and ambiguous. In one scenario, the child or ward uses the firearm to directly cause death to another as a direct result of the firearm’s use. In an alternate scenario, the child or ward uses the firearm without causing death but causes death without discharging the firearm or in a manner unrelated to the use of the firearm in any way.

To create a felony offense whereby the firearm owner may be punished by imprisonment for a period not exceeding 10 years or a fine not exceeding \$10,000 or both is excessive. This is especially true for an action taken by another without the knowledge, consent or involvement of the firearm owner.

The penalties stipulated by Senate Bill 656 for the firearm owner's negligent storage of a firearm exceed the penalties for a person who commits willful manslaughter and negligent manslaughter through gross negligence. (Criminal Law Article §4-207(a)(1)(2), §4-208 and §4-209(d)(1)). They also exceed the penalties for manslaughter by vehicle or vessel involving criminal negligence. (Criminal Law §4-210(f)(1))

During testimony on a similar bill, a county States Attorney explained that such offenses are rarely prosecuted because the person subject to charges has already suffered enough. If Senate Bill 656 becomes law, the likelihood of charges ever being placed will be reduced exponentially.

We strongly request an unfavorable report on Senate Bill 656.

John H. Josselyn
2A Maryland

Attachments: Criminal Law Article §4-207
 Criminal Law Article §4-208
 Criminal Law Article §4-209
 Criminal Law Article §4-210

Document: Md. Criminal Law Code Ann. § 2-207

Md. Criminal Law Code Ann. § 2-207

Copy Citation

Current with all legislation from the 2022 Regular Session of the General Assembly; including legislation ratified by the voters at the November 2022 election.

Michie’s™ Annotated Code of Maryland Criminal Law (Titles 1 – 14) Title 2. Homicide. (Subts. 1 – 5) Subtitle 2. Murder and Manslaughter. (§§ 2-201 – 2-210)

§ 2-207. Manslaughter.

(a) A person who commits manslaughter is guilty of a felony and on conviction is subject to:

- (1) imprisonment not exceeding 10 years; or
- (2) imprisonment in a local correctional facility not exceeding 2 years or a fine not exceeding \$500 or both.

(b) The discovery of one’s spouse engaged in sexual intercourse with another does not constitute legally adequate provocation for the purpose of mitigating a killing from the crime of murder to voluntary manslaughter even though the killing was provoked by that discovery.

(c) The discovery or perception of, or belief about, another person’s race, color, national origin, sex, gender identity, or sexual orientation, whether or not accurate, does not constitute legally adequate provocation to mitigate a killing from the crime of murder to manslaughter.

History

An. Code 1957, art. 27, §§ 387, 387A; 2002, ch. 26, § 2; 2021, ch. 369, § 1.

Document: Md. Criminal Law Code Ann. § 2-208

Md. Criminal Law Code Ann. § 2-208

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Michie’s™ Annotated Code of Maryland Criminal Law (Titles 1 – 14) Title 2. Homicide. (Subts. 1 – 5) Subtitle 2. Murder and Manslaughter. (§§ 2-201 – 2-210)

§ 2-208. Charging document.

(a) An indictment for murder or manslaughter is sufficient if it substantially states:

“(name of defendant) on (date) in (county) feloniously (willfully and with deliberately premeditated malice) killed (and murdered) (name of victim) against the peace, government, and dignity of the State.”.

(b) An indictment for murder or manslaughter, or for being an accessory to murder or manslaughter, need not set forth the manner or means of death.

History

An. Code 1957, art. 27, § 616; 2002, ch. 26, § 2.

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Document: Md. Criminal Law Code Ann. § 2-209

Md. Criminal Law Code Ann. § 2-209

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Michie's™ Annotated Code of Maryland Criminal Law (Titles 1 – 14) Title 2. Homicide. (Subts. 1 – 5) Subtitle 2. Murder and Manslaughter. (§§ 2-201 – 2-210)

§ 2-209. Manslaughter by vehicle or vessel — Gross negligence.

- (a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive, engine, and train.
- (b) A person may not cause the death of another as a result of the person’s driving, operating, or controlling a vehicle or vessel in a grossly negligent manner.
- (c) A violation of this section is manslaughter by vehicle or vessel.
- (d)
- (1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.
- (2)
- (i) A person who violates this section, having previously been convicted under this section, § 2-210, § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of this article, or § 21-902 of the Transportation Article, is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine not exceeding \$10,000 or both.
- (ii) For the purposes of application of subsequent offender penalties under subparagraph (i) of this paragraph, a conviction for a crime committed in another state or federal jurisdiction that, if committed in this State would constitute a violation of this section, § 2-210, § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of this article, or § 21-902 of the Transportation Article, shall be considered a violation of this section.

(e)

(1) An indictment or other charging document for manslaughter by vehicle or vessel is sufficient if it substantially states:

“(name of defendant) on (date) in (county) killed (name of victim) in a grossly negligent manner against the peace, government, and dignity of the State.”.

(2) An indictment or other charging document for manslaughter by vehicle or vessel need not set forth the manner or means of death.

History

An. Code 1957, art. 27, § 388; 2002, ch. 26, § 2; 2016, chs. 517, 518.

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Document: Md. Criminal Law Code Ann. § 2-210

Md. Criminal Law Code Ann. § 2-210

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Current with all legislation from the 2022 Regular Session of the General Assembly; including legislation ratified by the voters at the November 2022 election.

Michie’s™ Annotated Code of Maryland Criminal Law (Titles 1 – 14) Title 2. Homicide. (Subts. 1 – 5) Subtitle 2. Murder and Manslaughter. (§§ 2-201 – 2-210)

§ 2-210. Manslaughter by vehicle or vessel — Criminal negligence.

- (a) In this section, “vehicle” includes a motor vehicle, streetcar, locomotive, engine, and train.
- (b) A person may not cause the death of another as the result of the person’s driving, operating, or controlling a vehicle or vessel in a criminally negligent manner.
- (c) For purposes of this section, a person acts in a criminally negligent manner with respect to a result or a circumstance when:
 - (1) the person should be aware, but fails to perceive, that the person’s conduct creates a substantial and unjustifiable risk that such a result will occur; and
 - (2) the failure to perceive constitutes a gross deviation from the standard of care that would be exercised by a reasonable person.
- (d) It is not a violation of this section for a person to cause the death of another as the result of the person’s driving, operating, or controlling a vehicle or vessel in a negligent manner.
- (e) A violation of this section is criminally negligent manslaughter by vehicle or vessel.
- (f)

(1) Except as provided in paragraph (2) of this subsection, a person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine not exceeding \$5,000 or both.

- (2)
 - (i) A person who violates this section, having previously been convicted under this section, § 2-209, § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of this article, or § 21-902 of the Transportation Article,

2A Maryland SB 656 Attachments - Pages 1-6

is guilty of a felony and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both.

(ii) For the purposes of application of subsequent offender penalties under subparagraph (i) of this paragraph, a conviction for a crime committed in another state or federal jurisdiction that, if committed in this State would constitute a violation of this section, § 2-209, § 2-503, § 2-504, § 2-505, § 2-506, or § 3-211 of this article, or § 21-902 of the Transportation Article, shall be considered a violation of this section.

History

2011, ch. 334; 2016, chs. 517, 518.

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