

Chapter 251

(House Bill 1646)

AN ACT concerning

Criminal Procedure – Firearms – Transfer

FOR the purpose of requiring a State's Attorney to serve a certain notice on a certain defendant, defendant's counsel, and the court at a certain time; requiring a court to inform a defendant convicted of a certain offense that the defendant is prohibited from possessing a certain firearm under certain provisions of law and is ordered to transfer certain firearms in accordance with this Act; requiring the court to order the defendant to ~~make a certain attestation to the court or~~ transfer certain firearms in accordance with this Act ~~and; requiring the defendant to provide proof to the court or the State's Attorney that certain firearms owned by the defendant or in the defendant's possession have been transferred in accordance with this Act~~; providing for the procedure to transfer certain firearms; requiring a person accepting a transferred firearm to issue a certain proof of transfer; ~~requiring a person who is subject to a certain order to file certain proof with the court or the State's Attorney or attest to certain facts to the court or the State's Attorney within a certain period; authorizing the court on a certain application or based on certain evidence to issue a certain search warrant~~; authorizing the court to order a search for and removal of a certain firearm under certain circumstances; ~~requiring the court to specifically state the reasons for and scope of a certain search and seizure~~; authorizing law enforcement agencies to develop certain rules and procedures; requiring the Maryland Police Training and Standards Commission to develop and maintain a certain curriculum relating to certain investigations; providing exceptions for a certain person from prohibitions against carrying, transporting, or possessing certain firearms under certain circumstances; providing an exception for a certain firearms dealer from a prohibition against possessing or receiving a certain assault weapon under certain circumstances; defining certain terms; and generally relating to firearms.

BY adding to

Article – Criminal Procedure

Section 6–234

Annotated Code of Maryland

(2008 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,

Article – Criminal Law

Section 4–303

Annotated Code of Maryland

(2012 Replacement Volume and 2017 Supplement)

BY adding to

Article – Public Safety
 Section ~~3–207(i)~~ and 5–133(f)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2017 Supplement)

BY repealing and reenacting, with amendments,
 Article – Public Safety
 Section 5–205(c)
 Annotated Code of Maryland
 (2011 Replacement Volume and 2017 Supplement)

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

Article – Criminal Procedure

6–234.

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

(2) “CONVICTED OF A DISQUALIFYING CRIME” HAS THE MEANING STATED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE.

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

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

(5) “FEDERALLY LICENSED FIREARM DEALER” MEANS A PERSON WHO HOLDS A FEDERAL FIREARMS LICENSE ISSUED UNDER 18 U.S.C. § 9–232(A).

(6) “LAW ENFORCEMENT AGENCY” HAS THE MEANING STATED IN § 3–201 OF THE PUBLIC SAFETY ARTICLE.

(7) “LAW ENFORCEMENT OFFICIAL” HAS THE MEANING STATED IN § 4–201 OF THE CRIMINAL LAW ARTICLE.

~~(7)~~ (8) “REGULATED FIREARM” HAS THE MEANING STATED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE.

~~(8)~~ (9) “RIFLE” HAS THE MEANING STATED IN § 4–201 OF THE CRIMINAL LAW ARTICLE.

~~(9)~~ (10) "SHOTGUN" HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL LAW ARTICLE.

(B) (1) ~~WHEN A DEFENDANT HAS BEEN CHARGED WITH A DISQUALIFYING CRIME THAT IS POTENTIALLY A DOMESTICALLY RELATED CRIME AND THE UNDERLYING FACTS OF THAT CRIME WOULD SUPPORT A FINDING BY THE COURT, UNDER § 6-233 OF THIS SUBTITLE, THAT THE CRIME IS A DOMESTICALLY RELATED CRIME,~~ THE STATE'S ATTORNEY SHALL SERVE WRITTEN NOTICE ON THE DEFENDANT, THE DEFENDANT'S COUNSEL, AND THE COURT THAT:

(I) THE DEFENDANT HAS BEEN CHARGED WITH A DISQUALIFYING CRIME; AND

(II) UNDER STATE LAW, IT IS ILLEGAL FOR A PERSON WHO HAS BEEN CONVICTED OF A DISQUALIFYING CRIME TO POSSESS OR OWN A REGULATED FIREARM, A RIFLE, OR A SHOTGUN.

(2) THE STATE'S ATTORNEY SHALL SERVE THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION PRIOR TO TRIAL OR THE ACCEPTANCE OF A PLEA OF GUILTY OR THE EQUIVALENT OF A PLEA OF GUILTY.

(C) ~~ON CONVICTION OF OR PLEA OF GUILTY AT THE TIME OF SENTENCING FOR A CONVICTION, PLEA OF GUILTY, OR THE EQUIVALENT OF A PLEA OF GUILTY~~ WHEN A DEFENDANT IS CONVICTED OF OR PLEADS GUILTY TO A DISQUALIFYING CRIME THAT THE COURT DETERMINES TO BE A DOMESTICALLY RELATED CRIME, THE COURT SHALL INFORM THE DEFENDANT, ~~EITHER~~ BOTH VERBALLY ~~OR~~ AND IN ~~WRITING,~~ A WRITTEN NOTICE TO BE SIGNED BY THE DEFENDANT, THAT THE DEFENDANT IS ~~PROHIBITED FROM POSSESSING:~~

(1) PROHIBITED FROM POSSESSING A REGULATED FIREARM UNDER § 5-133 OF THE PUBLIC SAFETY ARTICLE; ~~AND~~

(2) PROHIBITED FROM POSSESSING A RIFLE OR SHOTGUN UNDER § 5-205 OF THE PUBLIC SAFETY ARTICLE; ~~AND~~

(3) ORDERED TO TRANSFER ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION IN ACCORDANCE WITH THIS SECTION.

(D) THE COURT SHALL ORDER THE DEFENDANT TO:

~~(1) ATTEST TO THE COURT THAT THE PERSON DOES NOT PRESENTLY OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR SHOTGUNS; OR~~

~~(1)(2)~~ TRANSFER ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION IN ACCORDANCE WITH THIS SECTION;~~AND.~~

~~(2) (E) THE DEFENDANT SHALL PROVIDE PROOF TO THE COURT OR THE STATE'S ATTORNEY THAT ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION HAVE BEEN TRANSFERRED IN ACCORDANCE WITH THIS SECTION.~~

~~(E)(F)~~ (1) A TRANSFER OF A REGULATED FIREARM, RIFLE, OR SHOTGUN UNDER THIS SECTION SHALL BE MADE WITHIN 2 BUSINESS DAYS AFTER THE ~~CONVICTION SENTENCING~~ CONVICTION TO A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR TO A FEDERALLY LICENSED FIREARMS DEALER.

(2) A PERSON ORDERED TO SURRENDER A REGULATED FIREARM, RIFLE, OR SHOTGUN UNDER THIS SECTION MAY DESIGNATE A REPRESENTATIVE TO TRANSFER THE FIREARM TO A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR TO A FEDERALLY LICENSED FIREARMS DEALER.

(3) A LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR FEDERALLY LICENSED FIREARMS DEALER ACCEPTING A TRANSFERRED FIREARM UNDER THIS SECTION SHALL ISSUE A WRITTEN PROOF OF TRANSFER TO THE PERSON TRANSFERRING THE FIREARM.

(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, A WRITTEN PROOF OF TRANSFER DESCRIBED IN PARAGRAPH (3) OF THIS SUBSECTION SHALL 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.

(II) FOR A FIREARM MANUFACTURED BEFORE 1968, IDENTIFYING MARKS MAY BE SUBSTITUTED FOR THE SERIAL NUMBER REQUIRED UNDER THIS PARAGRAPH.

~~(F) (G) WITHIN 5 BUSINESS DAYS AFTER BEING ORDERED TO TRANSFER A REGULATED FIREARM, RIFLE, OR SHOTGUN UNDER THIS SECTION, A PERSON SHALL:~~

~~(1) FILE A COPY OF THE PROOF OF TRANSFER WITH THE COURT OR THE STATE'S ATTORNEY AND ATTEST THAT ALL REGULATED FIREARMS, RIFLES, AND SHOTGUNS OWNED BY THE PERSON OR IN THE PERSON'S POSSESSION HAVE BEEN TRANSFERRED AND THAT THE PERSON DOES NOT OWN OR POSSESS ANY OTHER REGULATED FIREARMS, RIFLES, OR SHOTGUNS; OR~~

~~(2) ATTEST TO THE COURT OR THE STATE'S ATTORNEY THAT THE PERSON DOES NOT OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR SHOTGUNS AND DID NOT OWN OR POSSESS ANY REGULATED FIREARMS, RIFLES, OR SHOTGUNS AT THE TIME OF THE ORDER.~~

~~(G) (1) IF THE COURT, ON MOTION OF THE STATE'S ATTORNEY OR A LAW ENFORCEMENT OFFICIAL, FINDS PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS FAILED TO SURRENDER ONE OR MORE REGULATED FIREARMS, RIFLES, OR SHOTGUNS, THE COURT MAY ORDER A SEARCH FOR AND REMOVAL OF ANY REGULATED FIREARMS, RIFLES, OR SHOTGUNS AT ANY LOCATION WHERE THE COURT HAS PROBABLE CAUSE TO BELIEVE THE FIREARM OR FIREARMS ARE LOCATED.~~

~~(2) THE COURT SHALL SPECIFICALLY STATE THE REASONS FOR AND SCOPE OF THE SEARCH AND SEIZURE AUTHORIZED BY THE ORDER.~~

~~(H) (F) ON APPLICATION BY THE STATE'S ATTORNEY OR A LAW ENFORCEMENT OFFICIAL BASED ON THE FAILURE TO FILE THE PROOF OF TRANSFER REQUIRED BY SUBSECTION (G) OF THIS SECTION OR BASED ON PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS FAILED TO SURRENDER ONE OR MORE REGULATED FIREARMS, RIFLES, OR SHOTGUNS IN ACCORDANCE WITH THIS SECTION, THE COURT MAY ISSUE A SEARCH WARRANT FOR THE REMOVAL OF ANY REGULATED FIREARMS, RIFLES, OR SHOTGUNS OWNED OR POSSESSED BY THE PERSON AT ANY LOCATION IDENTIFIED IN THE APPLICATION FOR THE WARRANT PROBABLE CAUSE TO BELIEVE THAT THE PERSON HAS FAILED TO SURRENDER ONE OR MORE REGULATED FIREARMS, RIFLES, OR SHOTGUNS, IN ACCORDANCE WITH THIS SECTION, THE COURT MAY AUTHORIZE THE EXECUTION OF A SEARCH WARRANT FOR THE REMOVAL OF ANY REGULATED FIREARM, RIFLE, OR SHOTGUN AT ANY LOCATION WHERE THE COURT HAS PROBABLE CAUSE TO BELIEVE A REGULATED FIREARM, RIFLE, OR SHOTGUN OWNED OR POSSESSED BY THE PERSON IS LOCATED.~~

~~(H)~~ ~~(I)~~ **(G)** LAW ENFORCEMENT AGENCIES MAY DEVELOP RULES AND PROCEDURES PERTAINING TO THE STORAGE AND DISPOSAL OF FIREARMS THAT ARE SURRENDERED IN ACCORDANCE WITH THIS SECTION.

Article – Criminal Law

4–303.

(a) Except as provided in subsection (b) of this section, a person may not:

- (1) transport an assault weapon into the State; or
- (2) possess, sell, offer to sell, transfer, purchase, or receive an assault weapon.

(b) (1) A person who lawfully possessed an assault pistol before June 1, 1994, and who registered the assault pistol with the Secretary of State Police before August 1, 1994, may:

(i) continue to possess and transport the assault pistol; or

(ii) while carrying a court order requiring the surrender of the assault pistol, transport the assault pistol directly to [the] A law enforcement unit, barracks, or station, **A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY, OR A FEDERALLY LICENSED FIREARMS DEALER, AS APPLICABLE**, if the person has notified [the] A law enforcement unit, barracks, or station that the person is transporting the assault pistol in accordance with a court order and the assault pistol is unloaded.

(2) A licensed firearms dealer may continue to possess, sell, offer for sale, or transfer an assault long gun or a copycat weapon that the licensed firearms dealer lawfully possessed on or before October 1, 2013.

(3) A person who lawfully possessed, has a purchase order for, or completed an application to purchase an assault long gun or a copycat weapon before October 1, 2013, may:

(i) possess and transport the assault long gun or copycat weapon; or

(ii) while carrying a court order requiring the surrender of the assault long gun or copycat weapon, transport the assault long gun or copycat weapon directly to [the] A law enforcement unit, barracks, or station, **A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY, OR A FEDERALLY LICENSED FIREARMS DEALER, AS APPLICABLE**, if the person has notified [the] A law enforcement unit, barracks, or station that the person is transporting the assault long gun or copycat weapon in accordance with a court order and the assault long gun or copycat weapon is unloaded.

(4) A person may transport an assault weapon to or from:

(i) an ISO 17025 accredited, National Institute of Justice–approved ballistics testing laboratory; or

(ii) a facility or entity that manufactures or provides research and development testing, analysis, or engineering for personal protective equipment or vehicle protection systems.

(5) A FEDERALLY LICENSED FIREARMS DEALER MAY RECEIVE AND POSSESS AN ASSAULT WEAPON RECEIVED FROM A PERSON IN ACCORDANCE WITH A COURT ORDER TO TRANSFER FIREARMS UNDER § 6–234 OF THE CRIMINAL PROCEDURE ARTICLE.

Article – Public Safety

3–207.

(1) THE COMMISSION, IN CONSULTATION WITH THE MARYLAND STATE’S ATTORNEYS’ ASSOCIATION, SHALL DEVELOP AND MAINTAIN A UNIFORM, STATEWIDE TRAINING AND CERTIFICATION CURRICULUM TO ENSURE USE OF BEST PRACTICES IN INVESTIGATING COMPLIANCE WITH COURT ORDERS TO SURRENDER REGULATED FIREARMS, RIFLES, AND SHOTGUNS UNDER § 6–234 OF THE CRIMINAL PROCEDURE ARTICLE.

5–133.

(F) THIS SECTION DOES NOT APPLY TO THE CARRYING OR TRANSPORTING OF A REGULATED FIREARM BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE REGULATED FIREARM, IF:

(1) THE FIREARM IS UNLOADED;

(2) THE PERSON HAS NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE FIREARM IS BEING TRANSPORTED IN ACCORDANCE WITH THE ORDER; AND

(3) THE PERSON TRANSPORTS THE FIREARM DIRECTLY TO A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR A FEDERALLY LICENSED FIREARMS DEALER.

5–205.

(c) This section does not apply to:

(1) a person transporting a rifle or shotgun if the person is carrying a civil protective order requiring the surrender of the rifle or shotgun and:

[(1)] (I) the rifle or shotgun is unloaded;

[(2)] (II) the person has notified the law enforcement unit, barracks, or station that the rifle or shotgun is being transported in accordance with the civil protective order; and

[(3)] (III) the person transports the rifle or shotgun directly to the law enforcement unit, barracks, or station; **OR**

(2) THE CARRYING OR TRANSPORTING OF A RIFLE OR SHOTGUN BY A PERSON WHO IS CARRYING A COURT ORDER REQUIRING THE SURRENDER OF THE RIFLE OR SHOTGUN, IF:

(I) THE RIFLE OR SHOTGUN IS UNLOADED;

(II) THE PERSON HAS NOTIFIED A LAW ENFORCEMENT UNIT, BARRACKS, OR STATION THAT THE RIFLE OR SHOTGUN IS BEING TRANSPORTED IN ACCORDANCE WITH THE ORDER; AND

(III) THE PERSON TRANSPORTS THE RIFLE OR SHOTGUN DIRECTLY TO A STATE OR LOCAL LAW ENFORCEMENT ~~OFFICIAL~~ AGENCY OR A FEDERALLY LICENSED FIREARMS DEALER.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2018.

Approved by the Governor, April 24, 2018.