

HOUSE BILL 41

E2
HB 952/23 – JUD

EMERGENCY BILL
(PRE-FILED)

4lr0539

By: **Delegate Mangione**

Requested: August 28, 2023

Introduced and read first time: January 10, 2024

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Firearms – Penalties and Procedures**
3 **(Violent Firearms Offender Act of 2024)**

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

14 BY renumbering
15 Article – Criminal Law
16 Section 7–104(h) through (j)
17 to be Section 7–104(i) through (k), respectively
18 Annotated Code of Maryland
19 (2021 Replacement Volume and 2023 Supplement)

20 BY renumbering
21 Article – Public Safety
22 Section 5–134(c) and (d)
23 to be Section 5–134(d) and (e), respectively
24 Annotated Code of Maryland
25 (2022 Replacement Volume and 2023 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – Correctional Services

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



- 1 Section 6–101(a)
2 Annotated Code of Maryland
3 (2017 Replacement Volume and 2023 Supplement)
- 4 BY repealing and reenacting, with amendments,
5 Article – Correctional Services
6 Section 6–101(m)
7 Annotated Code of Maryland
8 (2017 Replacement Volume and 2023 Supplement)
- 9 BY repealing and reenacting, with amendments,
10 Article – Criminal Law
11 Section 4–204, 4–306(b), 4–404, and 7–104(g)
12 Annotated Code of Maryland
13 (2021 Replacement Volume and 2023 Supplement)
- 14 BY adding to
15 Article – Criminal Law
16 Section 7–104(h)
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2023 Supplement)
- 19 BY repealing and reenacting, with amendments,
20 Article – Criminal Law
21 Section 7–104(j)
22 Annotated Code of Maryland
23 (2021 Replacement Volume and 2023 Supplement)
24 (As enacted by Section 1 of this Act)
- 25 BY repealing and reenacting, without amendments,
26 Article – Criminal Procedure
27 Section 5–202(c)(1) and (d)(1)
28 Annotated Code of Maryland
29 (2018 Replacement Volume and 2023 Supplement)
- 30 BY repealing and reenacting, with amendments,
31 Article – Criminal Procedure
32 Section 5–202(f)
33 Annotated Code of Maryland
34 (2018 Replacement Volume and 2023 Supplement)
- 35 BY repealing and reenacting, with amendments,
36 Article – Public Safety
37 Section 5–133(b), (b–1), (c), and (g), 5–134(b), 5–138, 5–141, 5–142, and 5–144
38 Annotated Code of Maryland
39 (2022 Replacement Volume and 2023 Supplement)

BY adding to
Article – Public Safety
Section 5–134(c)
Annotated Code of Maryland
(2022 Replacement Volume and 2023 Supplement)

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

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

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

Article – Correctional Services

6–101.

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

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

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

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

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

(4) absconding; **OR**

(5) USE OR POSSESSION OF A FIREARM.

Article – Criminal Law

4–204.

(a) (1) In this section, “firearm” means:

(i) 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) the frame or receiver of such a weapon.

(2) "Firearm" includes an antique firearm, handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether loaded or unloaded.

(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] **FELONY** and, in addition to any other penalty imposed for the crime of violence or felony, shall be sentenced:

1. **FOR A FIRST OFFENSE**, to imprisonment for not less than 5 years and not exceeding 20 years; **AND**

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

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

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

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

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

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

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

4–306.

(b) (1) A person who uses an assault weapon, a rapid fire trigger activator, or a magazine that has a capacity of more than 10 rounds of ammunition, in the commission of a felony or a crime of violence as defined in § 5–101 of the Public Safety Article is guilty of a [misdemeanor] **FELONY** and on conviction, in addition to any other sentence imposed

for the felony or crime of violence, shall be sentenced under this subsection.

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

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

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

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

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

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

(III) THE MANDATORY MINIMUM SENTENCE OF 10 YEARS MAY NOT BE SUSPENDED.

(IV) EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 10 YEARS.

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

4–404.

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

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

(I) FOR A FIRST OFFENSE, IMPRISONMENT FOR NOT LESS THAN 5 YEARS AND NOT EXCEEDING 20 YEARS; AND

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

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

4 **(II) NOTWITHSTANDING § 14–102 OF THIS ARTICLE, THE COURT**
5 **MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 10 YEARS**
6 **FOR A SENTENCE IMPOSED UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION.**

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

9 **(4) EXCEPT AS OTHERWISE PROVIDED IN § 4–305 OF THE**
10 **CORRECTIONAL SERVICES ARTICLE, THE PERSON IS NOT ELIGIBLE FOR PAROLE IN**
11 **LESS THAN THE MANDATORY MINIMUM SENTENCE.**

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

15 7–104.

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

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

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

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

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

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

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

26 2. shall restore the property taken to the owner or pay the
27 owner the value of the property or services; or

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

29 1. is subject to imprisonment not exceeding 20 years or a fine

1 not exceeding \$25,000 or both; and

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

4 **[(2)] (3)** Except as provided in paragraph **[(3)] (4)** of this subsection, a
5 person convicted of theft of property or services with a value of at least \$100 but less than
6 \$1,500, is guilty of a misdemeanor and:

7 (i) is subject to:

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

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

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

14 **[(3)] (4)** A person convicted of theft of property or services with a value of
15 less than \$100 is guilty of a misdemeanor and:

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

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

20 **[(4)] (5)** Subject to paragraph **[(5)] (6)** of this subsection, a person who
21 has four or more prior convictions under this subtitle and who is convicted of theft of
22 property or services with a value of less than \$1,500 under paragraph **[(2)] (3)** of this
23 subsection is guilty of a misdemeanor and:

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

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

28 **[(5)] (6)** The court may not impose the penalties under paragraph **[(4)]**
29 **(5)** of this subsection unless the State's Attorney serves notice on the defendant or the
30 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least
31 15 days before trial that:

32 (i) the State will seek the penalties under paragraph **[(4)] (5)** of this

subsection; and

(ii) lists the alleged prior convictions.

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

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

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

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

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

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

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

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

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

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

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

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

Article – Criminal Procedure

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

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

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

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

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

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

(ii) arson in the second degree or attempting, aiding, counseling, or procuring arson in the second degree under § 6–103 of the Criminal Law Article;

(iii) burglary in the first degree under § 6–202 of the Criminal Law Article;

(iv) burglary in the second degree under § 6–203 of the Criminal Law Article;

(v) burglary in the third degree under § 6–204 of the Criminal Law Article;

(vi) causing abuse to a child under § 3–601 or § 3–602 of the Criminal Law Article;

(vii) a crime that relates to a destructive device under § 4–503 of the Criminal Law Article;

(viii) a crime that relates to a controlled dangerous substance under §§ 5–602 through 5–609 or § 5–612 or § 5–613 of the Criminal Law Article;

(ix) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article; and

(x) a crime of violence.

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

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

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

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

7 [(i)] 1. wearing, carrying, or transporting a handgun under §
8 4–203 of the Criminal Law Article;

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

11 [(iii)] 3. violating prohibitions relating to assault weapons under §
12 4–303 of the Criminal Law Article;

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

15 [(v)] 5. use of a machine gun for an aggressive purpose under §
16 4–405 of the Criminal Law Article;

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

19 7. **POSSESSING, USING, OWNING, CARRYING, OR**
20 **TRANSPORTING A FIREARM BY A PERSON WITH A PRIOR DRUG CONVICTION UNDER**
21 **§ 5–622 OF THE CRIMINAL LAW ARTICLE;**

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

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

26 10. **STRAW PURCHASE OF A REGULATED FIREARM UNDER**
27 **§ 5–136 OF THE PUBLIC SAFETY ARTICLE;**

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

30 [(viii)] 12. transporting a regulated firearm for unlawful sale or

1 trafficking under § 5–140 of the Public Safety Article; [or]

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

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

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

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

11 **17. A CRIME IN ANY OTHER JURISDICTION THAT WOULD**
12 **BE A CRIME UNDER ITEMS 1 THROUGH 16 OF THIS SUBPARAGRAPH IF COMMITTED**
13 **IN THIS STATE.**

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

16 1. suitable bail;

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

19 3. both bail and other conditions described under item 2 of
20 this subparagraph.

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

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

29 **Article – Public Safety**

30 5–133.

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

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

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

4 **[(3) (i)] (III) 1.** has been convicted on or after October 1, 2023, of a
5 second or subsequent violation of § 4–104 of the Criminal Law Article; or

6 **[(ii)] 2.** has been convicted on or after October 1, 2023, of a
7 violation of § 4–104 of the Criminal Law Article if the violation resulted in the use of a
8 loaded firearm by a minor causing death or serious bodily injury to the minor or another
9 person;

10 **[(4)] (IV)** subject to subsection (b–1) of this section, is on supervised
11 probation after being convicted:

12 **[(i)] 1.** of a crime punishable by imprisonment for 1 year or more;

13 **[(ii)] 2.** for a violation of § 21–902(b) or (c) of the Transportation
14 Article; or

15 **[(iii)] 3.** for a violating a protective order under § 4–509 of the
16 Family Law Article;

17 **[(5)] (V)** is a fugitive from justice;

18 **[(6)] (VI)** is a habitual drunkard;

19 **[(7)] (VII)** is addicted to a controlled dangerous substance or is a habitual
20 user;

21 **[(8)] (VIII)** suffers from a mental disorder as defined in § 10–101(i)(2) of the
22 Health – General Article and has a history of violent behavior against the person or
23 another;

24 **[(9)] (IX)** has been found incompetent to stand trial under § 3–106 of the
25 Criminal Procedure Article;

26 **[(10)] (X)** has been found not criminally responsible under § 3–110 of the
27 Criminal Procedure Article;

28 **[(11)] (XI)** has been voluntarily admitted for more than 30 consecutive days
29 to a facility as defined in § 10–101 of the Health – General Article;

30 **[(12)] (XII)** has been involuntarily committed to a facility as defined in §

1 10–101 of the Health – General Article;

2 [(13)] (XIII) is under the protection of a guardian appointed by a court under
3 § 13–201(c) or § 13–705 of the Estates and Trusts Article, except for cases in which the
4 appointment of a guardian is solely a result of a physical disability;

5 [(14)] (XIV) except as provided in subsection (e) of this section, is a
6 respondent against whom:

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

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

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

15 (2) (I) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION,
16 A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A MISDEMEANOR AND ON
17 CONVICTION IS SUBJECT TO:

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

20 2. FOR A SECOND OR SUBSEQUENT OFFENSE,
21 IMPRISONMENT NOT EXCEEDING 10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR
22 BOTH.

23 (II) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE
24 CRIME.

25 (III) A PERSON CONVICTED UNDER THIS SUBSECTION IS NOT
26 PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §
27 8–507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE
28 SENTENCE.

29 (b–1) Subsection [(b)(4)] (B)(1)(IV) of this section may not be construed to prohibit
30 possession of a regulated firearm by a person who was not convicted of but received only
31 probation before judgment for an offense listed in subsection [(b)(4)] (B)(1)(IV) of this
32 section.

33 (c) (1) A person may not possess a regulated firearm if the person was

1 previously convicted of:

2 (i) a crime of violence;

3 (ii) a violation of § 5–602, § 5–603, § 5–604, § 5–605, § 5–612, §
4 5–613, § 5–614, § 5–621, [or] § 5–622, **§ 9–803, § 9–804, OR § 9–805** of the Criminal Law
5 Article; or

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

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

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

14 (iii) Except as otherwise provided in § 4–305 of the Correctional
15 Services Article, the person is not eligible for parole during the mandatory minimum
16 sentence.

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

21 (i) the imposition of the mandatory minimum sentence is within the
22 discretion of the court; and

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

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

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

30 (g) Subject to subsection [(b)(3)] **(B)(1)(III)** of this section, a person who has been
31 convicted on or after October 1, 2023, of a violation of § 4–104 of the Criminal Law Article
32 may not possess a regulated firearm for 5 years following the date of the conviction.

33 5–134.

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

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

(2) has been convicted of a disqualifying crime;

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

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

(5) is a fugitive from justice;

(6) is a habitual drunkard;

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

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

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

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

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

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

(13) is a participant in a straw purchase;

(14) subject to subsection [(c)] (D) of this section for a transaction under this subsection that is made on or after January 1, 2002, has not completed a certified firearms safety training course conducted free of charge by the Maryland Police Training and

Standards Commission or that meets standards established by the Maryland Police Training and Standards Commission under § 3–207 of this article; or

(15) intends to use the regulated firearm to:

(i) commit a crime; or

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

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

(I) WAS PREVIOUSLY CONVICTED OF:

1. A CRIME OF VIOLENCE;

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

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

(II) INTENDS TO USE THE REGULATED FIREARM TO:

1. COMMIT A CRIME; OR

2. CAUSE HARM TO THE PURCHASER, LESSEE, TRANSFeree, OR RECIPIENT OR ANOTHER PERSON.

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

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

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

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

5–138.

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

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

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

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

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

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

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

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

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

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

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

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

5–141.

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

regulated firearm.

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

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

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

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

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

5–142.

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

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

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

5–144.

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

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

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

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

1 or both.

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

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