

# HOUSE BILL 1646

E2, E4

8lr2443  
CF SB 1036

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By: Delegates Atterbeary, Ali, Anderson, Angel, Barkley, B. Barnes, D. Barnes, Barron, Barve, Branch, Brooks, Carr, Chang, Clippinger, Cullison, Davis, Dumais, Ebersole, Fennell, Fraser-Hidalgo, Frick, Frush, Gaines, Gibson, Glenn, Gutierrez, Hayes, Healey, Hettleman, Hill, Hixson, Jalisi, Jameson, Jones, Kaiser, Kelly, Korman, Kramer, Krimm, Lafferty, Lam, J. Lewis, R. Lewis, Lierman, Luedtke, McCray, McIntosh, A. Miller, Moon, Morales, Morhaim, Mosby, Patterson, Pena-Melnyk, Pendergrass, Platt, Proctor, Queen, Reznik, Robinson, Rosenberg, Sample-Hughes, Sanchez, Stein, Sydnor, Tarlau, Turner, Valderrama, Valentino-Smith, Waldstreicher, A. Washington, M. Washington, Wilkins, Wilson, K. Young, ~~and P. Young~~ P. Young, and Flanagan

Introduced and read first time: February 9, 2018

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 11, 2018

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure – Firearms – Transfer**

3 FOR the purpose of requiring a State's Attorney to serve a certain notice on a certain  
4 defendant, defendant's counsel, and the court at a certain time; requiring a court to  
5 inform a defendant convicted of a certain offense that the defendant is prohibited  
6 from possessing a certain firearm under certain provisions of law; requiring the court  
7 to order the defendant to make a certain attestation to the court or transfer certain  
8 firearms in accordance with this Act ~~and; requiring the defendant to provide proof to~~  
9 ~~the court or the State's Attorney~~ that certain firearms owned by the defendant or in  
10 the defendant's possession have been transferred in accordance with this Act;  
11 providing for the procedure to transfer certain firearms; requiring a person accepting  
12 a transferred firearm to issue a certain proof of transfer; requiring a person who is  
13 subject to a certain order to file certain proof with the court ~~or the State's Attorney~~  
14 ~~or attest to certain facts to the court or the State's Attorney within a certain period;~~  
15 authorizing the court on a certain application or based on certain evidence to issue a

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain search warrant; authorizing the court to order a search for and removal of a  
2 certain firearm under certain circumstances; requiring the court to specifically state  
3 the reasons for and scope of a certain search and seizure; authorizing law  
4 enforcement agencies to develop certain rules and procedures; providing exceptions  
5 for a certain person from prohibitions against carrying, transporting, or possessing  
6 certain firearms under certain circumstances; providing an exception for a certain  
7 firearms dealer from a prohibition against possessing or receiving a certain assault  
8 weapon under certain circumstances; defining certain terms; and generally relating  
9 to firearms.

10 BY adding to  
11 Article – Criminal Procedure  
12 Section 6–234  
13 Annotated Code of Maryland  
14 (2008 Replacement Volume and 2017 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Law  
17 Section 4–303  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2017 Supplement)

20 BY adding to  
21 Article – Public Safety  
22 Section 5–133(f)  
23 Annotated Code of Maryland  
24 (2011 Replacement Volume and 2017 Supplement)

25 BY repealing and reenacting, with amendments,  
26 Article – Public Safety  
27 Section 5–205(c)  
28 Annotated Code of Maryland  
29 (2011 Replacement Volume and 2017 Supplement)

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

32 **Article – Criminal Procedure**

33 **6–234.**

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

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

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

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

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

7           (6) “LAW ENFORCEMENT OFFICIAL” HAS THE MEANING STATED IN §  
8 4-201 OF THE CRIMINAL LAW ARTICLE.

9           (7) “REGULATED FIREARM” HAS THE MEANING STATED IN § 5-101 OF  
10 THE PUBLIC SAFETY ARTICLE.

11           (8) “RIFLE” HAS THE MEANING STATED IN § 4-201 OF THE CRIMINAL  
12 LAW ARTICLE.

13           (9) “SHOTGUN” HAS THE MEANING STATED IN § 4-201 OF THE  
14 CRIMINAL LAW ARTICLE.

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

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

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

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

29           (C) ~~ON CONVICTION OF OR PLEA OF GUILTY~~ AT THE TIME OF SENTENCING  
30 FOR A CONVICTION, PLEA OF GUILTY, OR THE EQUIVALENT OF A PLEA OF GUILTY TO  
31 A DISQUALIFYING CRIME THAT THE COURT DETERMINES TO BE A DOMESTICALLY  
32 RELATED CRIME, THE COURT SHALL INFORM THE DEFENDANT, EITHER VERBALLY  
33 OR IN WRITING, THAT THE DEFENDANT IS PROHIBITED FROM POSSESSING:

1           (1) A REGULATED FIREARM UNDER § 5-133 OF THE PUBLIC SAFETY  
2 ARTICLE; AND

3           (2) A RIFLE OR SHOTGUN UNDER § 5-205 OF THE PUBLIC SAFETY  
4 ARTICLE.

5           (D) THE COURT SHALL ORDER THE DEFENDANT TO:

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

8           ~~(1)~~ (2) TRANSFER ALL REGULATED FIREARMS, RIFLES, AND  
9 SHOTGUNS OWNED BY THE DEFENDANT OR IN THE DEFENDANT'S POSSESSION IN  
10 ACCORDANCE WITH THIS SECTION;~~AND.~~

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

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

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

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

27           (4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS  
28 PARAGRAPH, A WRITTEN PROOF OF TRANSFER DESCRIBED IN PARAGRAPH (3) OF  
29 THIS SUBSECTION SHALL INCLUDE:

30                           1. THE NAME OF THE PERSON TRANSFERRING THE  
31 FIREARM;

32                           2. THE DATE THE FIREARM WAS TRANSFERRED; AND

1                                   3.     THE SERIAL NUMBER, MAKE, AND MODEL OF THE  
2 FIREARM.

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

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

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

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

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

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

27                   (H)     ON APPLICATION BY THE STATE'S ATTORNEY OR A LAW ENFORCEMENT  
28 OFFICIAL BASED ON THE FAILURE TO FILE THE PROOF OF TRANSFER REQUIRED BY  
29 SUBSECTION (G) OF THIS SECTION OR BASED ON PROBABLE CAUSE TO BELIEVE  
30 THAT THE PERSON HAS FAILED TO SURRENDER ONE OR MORE REGULATED  
31 FIREARMS, RIFLES, OR SHOTGUNS IN ACCORDANCE WITH THIS SECTION, THE COURT  
32 MAY ISSUE A SEARCH WARRANT FOR THE REMOVAL OF ANY REGULATED FIREARMS,  
33 RIFLES, OR SHOTGUNS OWNED OR POSSESSED BY THE PERSON AT ANY LOCATION  
34 IDENTIFIED IN THE APPLICATION FOR THE WARRANT.



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

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

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

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

11 **Article – Public Safety**

12 5–133.

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

16 **(1) THE FIREARM IS UNLOADED;**

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

20 **(3) THE PERSON TRANSPORTS THE FIREARM DIRECTLY TO A STATE**  
21 **OR LOCAL LAW ENFORCEMENT OFFICIAL OR A FEDERALLY LICENSED FIREARMS**  
22 **DEALER.**

23 5–205.

24 (c) This section does not apply to:

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

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

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

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

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

6                    **(I) THE RIFLE OR SHOTGUN IS UNLOADED;**

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

10                   **(III) THE PERSON TRANSPORTS THE RIFLE OR SHOTGUN**  
11 **DIRECTLY TO A STATE OR LOCAL LAW ENFORCEMENT OFFICIAL OR A FEDERALLY**  
12 **LICENSED FIREARMS DEALER.**

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.