

# TABLE OF CONTENTS

## **CRIMINAL LAW**

§4-102 - School Property.....	4
§4-104 - Child Access .....	5
§4-203 - Wear, Carry .....	6
§4-208 - Public Demonstration.....	9
§4-301 - Definitions .....	11
§4-303 - Assault Weapons .....	14

## **PUBLIC SAFETY**

§3-207 - MSP Commission .....	16
§5-101 - Definitions .....	22
§5-106 - Dealer's license .....	27
§5-110 - Disapproval of Dealer's License .....	27
§5-111 - Term Dealer's License .....	29
§5-117 - Application for Regulated Firearm .....	29
§5-117.1 - Handgun Qualification License .....	29
§5-118 - Firearm Application .....	34
§5-120 - Copies of Application and fees.....	36
§5-121 - Investigation of Applicant .....	37
§5-122 - Disapproval of Application .....	37
§5-123 - Time for Transaction .....	38
§5-124 - Secondary Transactions .....	39
§5-132 - Handgun Safety Devices .....	40
§5-133 - Possession of Regulated Firearms .....	42
§5-134 - Sale, Rental, & Transfer .....	45
§5-145 - Records Retention .....	47
§5-145.1 - Security Licensed Dealers .....	49
§5-205 - Prohibited Possessions .....	50
§5-206 - Crimes of Violence Prohibitors .....	52
§5-207 - Sale, Rent, Transfer Prohibitions .....	53
§5-303 - Wear, Carry Permit Requirement .....	55
§5-304 - Permit Application .....	55
§5-306 - Permit Qualifications .....	56
§5-307 - Permit Scope .....	58
§5-309 - Term of Permit .....	58
§5-313 - Return of Revoked Permit.....	59
§5-314 - Under the Influence .....	59
§5-601 - Definitions.....	60
§5-602 - Extreme Risk Protection Order .....	61
§5-603 - Interim ERPO .....	63
§5-604 - Temporary ERPO .....	65
§5-605 - Final ERPO .....	67
§5-701 - Definitions .....	70
§5-702 - PMF application .....	70

§5-703 - Serial Numbers Required .....	71
§5-704 - Registering Privately Made Firearms .....	73
§5-705 - MSP Regulation Authority .....	73
§5-706 - Right Against Incrimination .....	73

**HEALTH - GEN**

§10-101 -Definitions (incl “Mental disorder”) .....	75
---	----

**FAMILY**

§4-501 - Definitions .....	76
§4-506 Final Protective Orders .....	79
§4-506.1 Surrender of Firearm .....	84
§4-508.1 Protective Orders by Foreign Courts .....	85
§4-511 Removal of Firearms .....	86

**CRIMINAL PROCEDURE**

§3-110 - Insanity Plea .....	88
§6-234 Possession/Disqualifying Crimes .....	88

**ESTATES AND TRUSTS**

§13-201 - Appointment of Guardian .....	92
§13-705 - Appointment Process .....	92

**STATE GOVERNMENT**

§2-1702 - (location restriction General Assembly) .....	96
---	----

**TRANSPORTATION**

§5-1008 - (location restriction Airplane) .....	97
---	----

**BUSINESS REGULATION**

§15-203 - (location restriction refusal of lodging).....	98
--	----

**NATURAL RESOURCES**

§4-1013 - (location restriction dredge boat) .....	100
--	-----

**REGULATIONS**

04.05.01.03 (location restriction state owned public buildings).....	102
08.01.07.14 (location restriction Chesapeake Forest Land) .....	103
08.07.01.04 (location restriction state forests) .....	104
08.07.06.04 (location restriction state parks) .....	104

11.04.07.12 (location restriction state highway rest areas)..... 105  
12.02.03.10 (location restriction Rest Areas) .....105  
13A.16.10.04 (location restriction Child Care Centers) ..... 115

**U.S. CODE**

18 U.S.C. §921 - Definitions .....117  
18 U.S.C. §922 - Unlawful Acts ..... 124

## **CRIMINAL LAW**

**Effective: March 14, 2016**

**MD Code, Criminal Law, § 4-102**

**Formerly cited as MD CODE Art. 27, § 36A**

### **§ 4-102. Deadly weapons on school property**

#### **Exceptions**

(a) This section does not apply to:

(1) a law enforcement officer in the regular course of the officer's duty;

(2) an off-duty law enforcement officer or a person who has retired as a law enforcement officer in good standing from a law enforcement agency of the United States, the State, or a local unit in the State who is a parent, guardian, or visitor of a student attending a school located on the public school property, provided that:

(i) the officer or retired officer is displaying the officer's or retired officer's badge or credential;

(ii) the weapon carried or possessed by the officer or retired officer is concealed; and

(iii) the officer or retired officer is authorized to carry a concealed handgun in the State;

(3) a person hired by a county board of education specifically for the purpose of guarding public school property;

(4) a person engaged in organized shooting activity for educational purposes; or

(5) a person who, with a written invitation from the school principal, displays or engages in a historical demonstration using a weapon or a replica of a weapon for educational purposes.

#### **Prohibited**

(b) A person may not carry or possess a firearm, knife, or deadly weapon of any kind on public school property.

#### **Penalty**

(c)(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 \$1,000 or both.

(2) A person who is convicted of carrying or possessing a handgun in violation of this section shall be sentenced under Subtitle 2 of this title.

**MD Code, Criminal Law, § 4-104**

**Formerly cited as MD CODE Art. 27, § 36K**

**§ 4-104. Child's access to firearms**

**Definitions**

(a)(1) In this section the following words have the meanings indicated.

(2) "Ammunition" means a cartridge, shell, or other device containing explosive or incendiary material designed and intended for use in a firearm.

(3) "Child" means an individual under the age of 16 years.

(4)(i) "Firearm" means a handgun, rifle, shotgun, short-barreled rifle, or short-barreled shotgun, as those terms are defined in § 4-201 of this title, or any other firearm.

(ii) "Firearm" does not include an antique firearm as defined in § 4-201 of this title.

**Exceptions**

(b) This section does not apply if:

(1) the child's access to a firearm is supervised by an individual at least 18 years old;

(2) the child's access to a firearm was obtained as a result of an unlawful entry;

(3) the firearm is in the possession or control of a law enforcement officer while the officer is engaged in official duties; or

(4) the child has a certificate of firearm and hunter safety issued under § 10-301.1 of the Natural Resources Article.

**Prohibited**

(c) A person may not store or leave a loaded firearm in a location where the person knew or should have known that an unsupervised child would gain access to the firearm.

**Penalty**

(d) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

**Effect of violation**

(e)(1) A violation of this section may not:

(i) be considered evidence of negligence;

(ii) be considered evidence of contributory negligence;

(iii) limit liability of a party or an insurer; or

(iv) diminish recovery for damages arising out of the ownership, maintenance, or operation of a firearm or ammunition.

(2) A party, witness, or lawyer may not refer to a violation of this section during a trial of a civil action that involves property damage, personal injury, or death.

**Effective: October 1, 2018**

**MD Code, Criminal Law, § 4-203**

**Formerly cited as MD CODE Art. 27, § 36B**

**§ 4-203. Wearing, carrying, or transporting handgun**

### **Prohibited**

(a)(1) Except as provided in subsection (b) of this section, a person may not:

(i) wear, carry, or transport a handgun, whether concealed or open, on or about the person;

(ii) wear, carry, or knowingly transport a handgun, whether concealed or open, in a vehicle traveling on a road or parking lot generally used by the public, highway, waterway, or airway of the State;

(iii) violate item (i) or (ii) of this paragraph while on public school property in the State;

(iv) violate item (i) or (ii) of this paragraph with the deliberate purpose of injuring or killing another person; or

(v) violate item (i) or (ii) of this paragraph with a handgun loaded with ammunition.

(2) There is a rebuttable presumption that a person who transports a handgun under paragraph (1)(ii) of this subsection transports the handgun knowingly.

### **Exceptions**

(b) This section does not prohibit:

(1) the wearing, carrying, or transporting of a handgun by a person who is authorized at the time and under the circumstances to wear, carry, or transport the handgun as part of the person's official equipment, and is:

- (i) a law enforcement official of the United States, the State, or a county or city of the State;
  - (ii) a member of the armed forces of the United States or of the National Guard on duty or traveling to or from duty;
  - (iii) a law enforcement official of another state or subdivision of another state temporarily in this State on official business;
  - (iv) a correctional officer or warden of a correctional facility in the State;
  - (v) a sheriff or full-time assistant or deputy sheriff of the State; or
  - (vi) a temporary or part-time sheriff's deputy;
- (2) the wearing, carrying, or transporting of a handgun, in compliance with any limitations imposed under § 5-307 of the Public Safety Article, by a person to whom a permit to wear, carry, or transport the handgun has been issued under Title 5, Subtitle 3 of the Public Safety Article;
- (3) the carrying of a handgun on the person or in a vehicle while the person is transporting the handgun to or from the place of legal purchase or sale, or to or from a bona fide repair shop, or between bona fide residences of the person, or between the bona fide residence and place of business of the person, if the business is operated and owned substantially by the person if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- (4) the wearing, carrying, or transporting by a person of a handgun used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a Department of Natural Resources-sponsored firearms and hunter safety class, trapping, or a dog obedience training class or show, while the person is engaged in, on the way to, or returning from that activity if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- (5) the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition if each handgun is unloaded and carried in an enclosed case or an enclosed holster;
- (6) the wearing, carrying, or transporting of a handgun by a person on real estate that the person owns or leases or where the person resides or within the confines of a business establishment that the person owns or leases;
- (7) the wearing, carrying, or transporting of a handgun by a supervisory employee:
- (i) in the course of employment;
  - (ii) within the confines of the business establishment in which the supervisory employee is employed; and
  - (iii) when so authorized by the owner or manager of the business establishment;

(8) the carrying or transporting of a signal pistol or other visual distress signal approved by the United States Coast Guard in a vessel on the waterways of the State or, if the signal pistol or other visual distress signal is unloaded and carried in an enclosed case, in a vehicle; or

(9) the wearing, carrying, or transporting of a handgun by a person who is carrying a court order requiring the surrender of the handgun, if:

(i) the handgun is unloaded;

(ii) the person has notified the law enforcement unit, barracks, or station that the handgun is being transported in accordance with the court order; and

(iii) the person transports the handgun directly to the law enforcement unit, barracks, or station.

### **Penalty**

(c)(1) A person who violates this section is guilty of a misdemeanor and on conviction is subject to the penalties provided in this subsection.

(2) If the person has not previously been convicted under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

(i) except as provided in item (ii) of this paragraph, the person is subject to imprisonment for not less than 30 days and not exceeding 3 years or a fine of not less than \$250 and not exceeding \$2,500 or both; or

(ii) if the person violates subsection (a)(1)(iii) of this section, the person shall be sentenced to imprisonment for not less than 90 days.

(3)(i) If the person has previously been convicted once under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

1. except as provided in item 2 of this subparagraph, the person is subject to imprisonment for not less than 1 year and not exceeding 10 years; or

2. if the person violates subsection (a)(1)(iii) of this section, the person is subject to imprisonment for not less than 3 years and not exceeding 10 years.

(ii) 1. Except as provided in subparagraph 2 of this subparagraph, the court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

2. If the person violates subsection (a)(1)(v) of this section, the court may not suspend any part of or impose less than the applicable mandatory minimum sentence provided under subparagraph (i) of this paragraph.

(iii) Except as provided in § 4-305 of the Correctional Services Article, if the person violates subsection (a)(1)(v) of this section, the person is not eligible for parole during the mandatory minimum sentence.



(iv) A mandatory minimum sentence under subparagraph (ii)2 of this paragraph may not be imposed unless the State's Attorney notifies the defendant in writing at least 30 days before trial of the State's intention to seek the mandatory minimum sentence.

(4)(i) If the person has previously been convicted more than once under this section, § 4-204 of this subtitle, or § 4-101 or § 4-102 of this title, or of any combination of these crimes:

1. except as provided in item 2 of this subparagraph, the person is subject to imprisonment for not less than 3 years and not exceeding 10 years; or

2. A. if the person violates subsection (a)(1)(iii) of this section, the person is subject to imprisonment for not less than 5 years and not exceeding 10 years; or

B. if the person violates subsection (a)(1)(iv) of this section, the person is subject to imprisonment for not less than 5 years and not exceeding 10 years.

(ii) 1. Except as provided in subsubparagraph 2 of this subparagraph, the court may not impose less than the applicable minimum sentence provided under subparagraph (i) of this paragraph.

2. If the person violates subsection (a)(1)(v) of this section, the court may not suspend any part of or impose less than the applicable mandatory minimum sentence provided under subparagraph (i) of this paragraph.

(iii) Except as provided in § 4-305 of the Correctional Services Article, if the person violates subsection (a)(1)(v) of this section, the person is not eligible for parole during the mandatory minimum sentence.

(iv) A mandatory minimum sentence under subparagraph (ii)2 of this paragraph may not be imposed unless the State's Attorney notifies the defendant in writing at least 30 days before trial of the State's intention to seek the mandatory minimum sentence.

**Effective: October 1, 2016**

**MD Code, Criminal Law, § 4-208**

**Formerly cited as MD CODE Art. 27, § 36G**

**§ 4-208. Possession of firearm at public demonstration**

### **Definitions**

(a)(1) In this section the following words have the meanings indicated.

(2)(i) "Demonstration" means one or more persons demonstrating, picketing, speechmaking, marching, holding a vigil, or engaging in any other similar conduct that involves the communication or expression of views or grievances and that has the effect, intent, or propensity to attract a crowd or onlookers.

(ii) “Demonstration” does not include the casual use of property by visitors or tourists that does not have the intent or propensity to attract a crowd or onlookers.

(3)(i) “Firearm” means a handgun, rifle, shotgun, short-barreled rifle, short-barreled shotgun, or any other firearm, whether loaded or unloaded.

(ii) “Firearm” does not include an antique firearm.

(4) “Handgun” has the meaning stated in § 5-101 of the Public Safety Article.

(5) “Law enforcement officer” means:

(i) a member of a police force or other unit of the United States, the State, a county, municipal corporation, or other political subdivision who is responsible for the prevention and detection of crime and the enforcement of the laws of the United States, the State, a county, municipal corporation, or other political subdivision;

(ii) a park police officer of the Maryland-National Capital Park and Planning Commission;

(iii) a member of the University System of Maryland Police Force; and

(iv) any military or militia personnel directed by constituted authority to keep law and order.

(6)(i) “Public place” means a place to which the general public has access and a right to resort for business, entertainment, or other lawful purpose.

(ii) “Public place” is not limited to a place devoted solely to the uses of the public.

(iii) “Public place” includes:

1. the front or immediate area or parking lot of a store, restaurant, tavern, shopping center, or other place of business;
2. a public building, including its grounds and curtilage;
3. a public parking lot;
4. a public street, sidewalk, or right-of-way;
5. a public park; and
6. other public grounds.

## **Prohibited**

(b)(1) This subsection does not apply to a law enforcement officer.

(2) A person may not have a firearm in the person's possession or on or about the person at a demonstration in a public place or in a vehicle that is within 1,000 feet of a demonstration in a public place after:

(i) the person has been advised by a law enforcement officer that a demonstration is occurring at the public place; and

(ii) the person has been ordered by the law enforcement officer to leave the area of the demonstration until the person disposes of the firearm.

### **Penalty**

(c) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

**Effective: October 1, 2018**

**MD Code, Criminal Law, § 4-301**

**Formerly cited as MD CODE Art. 27, § 36H-1**

### **§ 4-301. Definitions**

#### **In general**

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

#### **Assault long gun**

(b) “Assault long gun” means any assault weapon listed under § 5-101(r)(2) of the Public Safety Article.

#### **Assault pistol**

(c) “Assault pistol” means any of the following firearms or a copy regardless of the producer or manufacturer:

- (1) AA Arms AP-9 semiautomatic pistol;
- (2) Bushmaster semiautomatic pistol;
- (3) Claridge HI-TEC semiautomatic pistol;
- (4) D Max Industries semiautomatic pistol;
- (5) Encom MK-IV, MP-9, or MP-45 semiautomatic pistol;
- (6) Heckler and Koch semiautomatic SP-89 pistol;
- (7) Holmes MP-83 semiautomatic pistol;
- (8) Ingram MAC 10/11 semiautomatic pistol and variations including the Partisan Avenger and the SWD Cobray;
- (9) Intratec TEC-9/DC-9 semiautomatic pistol in any centerfire variation;
- (10) P.A.W.S. type semiautomatic pistol;
- (11) Skorpion semiautomatic pistol;

- (12) Spectre double action semiautomatic pistol (Sile, F.I.E., Mitchell);
- (13) UZI semiautomatic pistol;
- (14) Weaver Arms semiautomatic Nighthawk pistol; or
- (15) Wilkinson semiautomatic “Linda” pistol.

### **Assault weapon**

(d) “Assault weapon” means:

- (1) an assault long gun;
- (2) an assault pistol; or
- (3) a copycat weapon.

### **Binary trigger system**

(e) “Binary trigger system” means a device that, when installed in or attached to a firearm, fires both when the trigger is pulled and on release of the trigger.

### **Bump stock**

(f) “Bump stock” means a device that, when installed in or attached to a firearm, increases the rate of fire of the firearm by using energy from the recoil of the firearm to generate a reciprocating action that facilitates repeated activation of the trigger.

### **Burst trigger system**

(g) “Burst trigger system” means a device that, when installed in or attached to a firearm, allows the firearm to discharge two or more shots with a single pull of the trigger by altering the trigger reset.

### **Copycat weapon**

(h)(1) “Copycat weapon” means:

(i) a semiautomatic centerfire rifle that can accept a detachable magazine and has any two of the following:

- 1. a folding stock;
- 2. a grenade launcher or flare launcher; or
- 3. a flash suppressor;

(ii) a semiautomatic centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds;

(iii) a semiautomatic centerfire rifle that has an overall length of less than 29 inches;

(iv) a semiautomatic pistol with a fixed magazine that can accept more than 10 rounds;

(v) a semiautomatic shotgun that has a folding stock; or

(vi) a shotgun with a revolving cylinder.

(2) “Copycat weapon” does not include an assault long gun or an assault pistol.

### **Detachable magazine**

(i) “Detachable magazine” means an ammunition feeding device that can be removed readily from a firearm without requiring disassembly of the firearm action or without the use of a tool, including a bullet or cartridge.

### **Flash suppressor**

(j) “Flash suppressor” means a device that functions, or is intended to function, to perceptibly reduce or redirect muzzle flash from the shooter's field of vision.

### **Hellfire trigger**

(k) “Hellfire trigger” means a device that, when installed in or attached to a firearm, disengages the trigger return spring when the trigger is pulled.

### **Licensed firearms dealer**

(l) “Licensed firearms dealer” means a person who holds a dealer's license under Title 5, Subtitle 1 of the Public Safety Article.

### **Rapid fire trigger activator**

(m)(1) “Rapid fire trigger activator” means any device, including a removable manual or power-driven activating device, constructed so that, when installed in or attached to a firearm:

(i) the rate at which the trigger is activated increases; or

(ii) the rate of fire increases.

(2) “Rapid fire trigger activator” includes a bump stock, trigger crank, hellfire trigger, binary trigger system, burst trigger system, or a copy or a similar device, regardless of the producer or manufacturer.

(3) “Rapid fire trigger activator” does not include a semiautomatic replacement trigger that improves the performance and functionality over the stock trigger.

### **Trigger crank**

(n) “Trigger crank” means a device that, when installed in or attached to a firearm, repeatedly activates the trigger of the firearm through the use of a crank, a lever, or any other part that is turned in a circular motion.

**Effective: October 1, 2018**

**MD Code, Criminal Law, § 4-303**

**Formerly cited as MD CODE Art. 27, § 36H-3**

**§ 4-303. Assault weapons--Prohibited**

**In general**

(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.

**Exception**

(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 a law enforcement unit, barracks, or station, a State or local law enforcement agency, or a federally licensed firearms dealer, as applicable, if the person has notified 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 a law enforcement unit, barracks, or station, a State or local law enforcement agency, or a federally licensed firearms dealer, as applicable, if the person has notified 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.

## **PUBLIC SAFETY**

**Effective: October 1, 2022**

**MD Code, Public Safety, § 3-207**

**Formerly cited as MD CODE Art. 41, § 4-201**

### **§ 3-207. General powers and duties of Commission**

#### **In general**

(a) The Commission has the following powers and duties:

(1) to establish standards for the approval and continuation of approval of schools that conduct police entrance-level and in-service training courses required by the Commission, including State, regional, county, and municipal training schools;

(2) to approve and issue certificates of approval to police training schools;

(3) to inspect police training schools;

(4) to revoke, for cause, the approval or certificate of approval issued to a police training school;

(5) to establish the following for police training schools:

(i) curriculum;

(ii) minimum courses of study;

(iii) attendance requirements;

(iv) eligibility requirements;

(v) equipment and facilities;

(vi) standards of operation; and

(vii) minimum qualifications for instructors;

(6) to require, for entrance-level police training and at least every 3 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application and enforcement of:

(i) the criminal laws concerning rape and sexual offenses, including the sexual abuse and exploitation of children and related evidentiary procedures;



- (ii) the criminal laws concerning human trafficking, including services and support available to victims and the rights and appropriate treatment of victims;
- (iii) the criminal laws concerning hate crimes, including the recognition of, response to, and reporting of incidents required to be reported under § 2-307 of this article;
- (iv) the criminal laws concerning stalking as they pertain to electronic surveillance or tracking, including services available to victims, related prevention methods for victims, and how victims may request additional assistance to identify and preserve digital evidence;
- (v) the contact with and treatment of victims of crimes and delinquent acts;
- (vi) the notices, services, support, and rights available to victims and victims' representatives under State law; and
- (vii) the notification of victims of identity fraud and related crimes of their rights under federal law;
- (7) to certify and issue appropriate certificates to qualified instructors for police training schools authorized by the Commission to offer police training programs;
- (8) to verify that police officers have satisfactorily completed training programs and issue diplomas to those police officers;
- (9) to conduct and operate police training schools authorized by the Commission to offer police training programs;
- (10) to make a continuous study of entrance-level and in-service training methods and procedures;
- (11) to consult with and accept the cooperation of any recognized federal, State, or municipal law enforcement agency or educational institution;
- (12) to consult and cooperate with universities, colleges, and institutions in the State to develop specialized courses of study for police officers in police science and police administration;
- (13) to consult and cooperate with other agencies and units of the State concerned with police training;
- (14) to develop, with the cooperation of the Office of the Chief Medical Examiner and the Federal Bureau of Investigation, a uniform missing person report form to be available for use by each law enforcement agency of the State on or before October 1, 2008;
- (15) to require, for entrance-level police training and annually for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, for police officers who are issued an electronic control device by a law enforcement agency, special training in the proper use of electronic control devices, as defined

in § 4-109 of the Criminal Law Article, consistent with established law enforcement standards and federal and State constitutional provisions;

(16) to require, for entrance-level police training and, as determined by the Commission, for in-service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions:

(i) training in lifesaving techniques, including Cardiopulmonary Resuscitation (CPR);

(ii) training in the proper level and use of force as set forth in the Maryland Use of Force Statute under § 3-524 of this title;

(iii) training regarding sensitivity to cultural and gender diversity; and

(iv) training regarding individuals with physical, intellectual, developmental, and psychiatric disabilities;

(17) to require, for entrance-level police training and at least every 2 years for in-service level police training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include special training, attention to, and study of the application of antidiscrimination and use of force de-escalation training;

(18) to develop, with the cooperation of the Office of the Attorney General, the Governor's Office of Crime Prevention, Youth, and Victim Services, and the Federal Trade Commission, a uniform identity fraud reporting form that:

(i) makes transmitted data available on or before October 1, 2011, for use by each law enforcement agency of State and local government; and

(ii) may authorize the data to be transmitted to the Consumer Sentinel program in the Federal Trade Commission;

(19) to adopt and recommend a set of best practices and standards for use of force;

(20) to evaluate and modernize recruitment standards and practices of law enforcement agencies to increase diversity within those law enforcement agencies and develop strategies for recruiting women and African American, Hispanic or Latino, and other minority candidates;

(21) to develop standards for the mandatory psychological consultation with a law enforcement officer who was actively involved in an incident when another person was seriously injured or killed as a result of an accident or a shooting or has returned from combat deployment;

(22) to require:

(i) a statement condemning motorcycle profiling to be included in existing written policies regarding other profiling; and

(ii) for entrance-level police training and for in-service level training conducted by the State and each county and municipal police training school, that the curriculum and minimum courses of study include, consistent with established law enforcement standards and federal and State constitutional provisions, training related to motorcycle profiling in conjunction with existing training regarding other profiling;

(23) to perform any other act, including adopting regulations, that is necessary or appropriate to carry out the powers and duties of the Commission under this subtitle; and

(24) to consult and cooperate with commanders of SWAT teams to develop standards for training and deployment of SWAT teams and of law enforcement officers who are not members of a SWAT team who conduct no-knock warrant service in the State based on best practices in the State and nationwide.

### **Reporting of serious officer-involved incidents and discipline**

(b)(1) The Commission shall develop a system by which law enforcement agencies report to the Commission each serious officer-involved incident each year, including for each incident:

(i) the number of officers involved by race, ethnicity, and sex;

(ii) the number of officers disciplined by race, ethnicity, and sex; and

(iii) the type of discipline administered to each officer, by the officer's race, ethnicity, and sex.

(2) The Commission shall annually summarize the information submitted by law enforcement agencies and:

(i) post the summary, excluding the names of officers and other involved parties, on a website maintained by the Commission; and

(ii) submit the summary to the General Assembly, as provided in § 2-1257 of the State Government Article.

### **Mental health counseling hotline**

(c) In consultation with the Maryland Department of Health, the Commission shall establish a confidential hotline that is available for police officers and other law enforcement personnel to contact and speak with a trained peer law enforcement officer or a mental health professional who may provide initial counseling advice and confidential referral to appropriate services.

### **Police Complaint Mediation Program**

(d) The Commission shall:

(1) establish a Police Complaint Mediation Program to which a law enforcement agency may refer a nonviolent complaint made against a police officer out of the standard complaint process;

(2) refer a complaint referred to the Program to voluntary mediation conducted by an independent mediation service; and

(3) adopt regulations to implement the Program, including criteria concerning eligibility for referral of complaints.

### **Community policing program**

(e)(1) The Commission shall develop best practices for the establishment and implementation of a community policing program in each jurisdiction.

(2) The Commission shall develop a system by which each local law enforcement agency annually files a detailed description of the law enforcement agency's community policing program.

(3) The Commission shall annually:

(i) review each community policing program filed in accordance with § 3-517 of this title; and

(ii) provide each agency with any comments that the Commission has to improve the agency's community policing program.

### **Uniform citizen complaint process**

(f)(1) The Commission shall develop a uniform citizen complaint process to be followed by each law enforcement agency.

(2) The uniform complaint process shall:

(i) be simple;

(ii) require that a complainant be informed of the final disposition of the complainant's complaint and any discipline imposed as a result; and

(iii) be posted on the websites of the Commission and each law enforcement agency.

### **Training program for prospective hearing board members**

(g) The Commission shall develop and administer:

(1) a training program on matters relating to police procedures for individuals who intend to qualify to participate as a member of a trial board or administrative charging committee under Subtitle 1 of this title; and

(2) a training program on matters relating to police training and standards for citizens who are appointed to serve as members of the Commission.

### **Distribution of the victim's representation notification form**

(h) The Commission shall distribute the victim's representation notification form developed by the Governor's Office of Crime Prevention, Youth, and Victim

Services under § 12-206.1(e) of the Transportation Article to each law enforcement agency in the State.

**Training and certification curriculum for investigating compliance with court orders to surrender regulated firearms, rifles, and shotguns**

(i) 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.

**Role-playing exercises to ensure the use of best practices in the issuance of citations in lieu of arrest**

(j) The Commission, in consultation with the Anne Arundel County Police Academy, shall develop and maintain a uniform statewide training and certification curriculum that includes role-playing exercises to ensure the use of best practices in the issuance of citations in lieu of arrest.

**Holding law enforcement agencies accountable for violations of Use of Force Statute**

(k) The Commission shall:

(1) hold law enforcement agencies accountable for violations of the Use of Force Statute under § 3-524 of this title; and

(2) work with the Comptroller and the Governor's Office of Crime Prevention, Youth, and Victim Services to ensure that State grant funding is withheld from a law enforcement agency that violates the Use of Force Statute under § 3-524 of this title.

**Develop testing and training for implicit bias for all law enforcement agencies**

(l) The Commission shall:

(1) develop a test and training for implicit bias, subject to the availability of implicit bias testing standards that are generally accepted by experts in the field of police psychology;

(2) require all law enforcement agencies to use the implicit bias test in the hiring process;

(3) require all new police officers to complete implicit bias testing and training; and

(4) require all incumbent police officers to undergo implicit bias testing and training on an annual basis.

**Effective: June 1, 2022**

**MD Code, Public Safety, § 5-101**

**Formerly cited as MD CODE Art. 27, § 441; MD CODE Art. 27, § 442; MD CODE Art. 27, § 443; MD CODE Art. 27, § 445**

**§ 5-101. Definitions**

**In general**

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

**Antique firearm**

(b) “Antique firearm” has the meaning stated in § 4-201 of the Criminal Law Article.

**Convicted of disqualifying crime**

(b-1)(1) “Convicted of a disqualifying crime” includes:

(i) a case in which a person received probation before judgment for a crime of violence; and

(ii) a case in which a person received probation before judgment in a domestically related crime as defined in § 6-233 of the Criminal Procedure Article.

(2) “Convicted of a disqualifying crime” does not include a case in which a person received a probation before judgment:

(i) for assault in the second degree, unless the crime was a domestically related crime as defined in § 6-233 of the Criminal Procedure Article; or

(ii) that was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article.

**Crime of violence**

(c) “Crime of violence” means:

(1) abduction;

(2) arson in the first degree;

(3) assault in the first or second degree;

(4) burglary in the first, second, or third degree;

(5) carjacking and armed carjacking;

(6) escape in the first degree;

(7) kidnapping;

(8) voluntary manslaughter;

(9) maiming as previously proscribed under former Article 27, § 386 of the Code;

- (10) mayhem as previously proscribed under former Article 27, § 384 of the Code;
- (11) murder in the first or second degree;
- (12) rape in the first or second degree;
- (13) robbery;
- (14) robbery with a dangerous weapon;
- (15) sexual offense in the first, second, or third degree;
- (16) home invasion under § 6-202(b) of the Criminal Law Article;
- (17) a felony offense under Title 3, Subtitle 11 of the Criminal Law Article;
- (18) an attempt to commit any of the crimes listed in items (1) through (17) of this subsection; or
- (19) assault with intent to commit any of the crimes listed in items (1) through (17) of this subsection or a crime punishable by imprisonment for more than 1 year.

**Dealer**

- (d) “Dealer” means a person who is engaged in the business of:
- (1) selling, renting, or transferring firearms at wholesale or retail; or
  - (2) repairing firearms.

**Dealer's license**

- (e) “Dealer's license” means a State regulated firearms dealer's license.

**Designated law enforcement agency**

- (f) “Designated law enforcement agency” means a law enforcement agency that the Secretary designates to process applications to purchase regulated firearms for secondary sales.

**Disqualifying crime**

- (g) “Disqualifying crime” means:
- (1) a crime of violence;
  - (2) a violation classified as a felony in the State; or
  - (3) a violation classified as a misdemeanor in the State that carries a statutory penalty of more than 2 years.

**Firearm**

- (h)(1) “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;

(ii) the frame or receiver of such a weapon; or

(iii) an unfinished frame or receiver, as defined in § 5-701 of this title.

(2) “Firearm” includes a starter gun.

### **Firearm applicant**

(i) “Firearm applicant” means a person who makes a firearm application.

### **Firearm application**

(j) “Firearm application” means an application to purchase, rent, or transfer a regulated firearm.

### **Fugitive from justice**

(k) “Fugitive from justice” means a person who has fled to avoid prosecution or giving testimony in a criminal proceeding.

### **Habitual drunkard**

(l) “Habitual drunkard” means a person who has been found guilty of any three crimes under § 21-902(a), (b), or (c) of the Transportation Article, one of which occurred in the past year.

### **Habitual user**

(m) “Habitual user” means a person who has been found guilty of two controlled dangerous substance crimes, one of which occurred in the past 5 years.

### **Handgun**

(n)(1) “Handgun” means a firearm with a barrel less than 16 inches in length.

(2) “Handgun” includes signal, starter, and blank pistols.

### **Handgun qualification license**

(o) “Handgun qualification license” means a license issued by the Secretary that authorizes a person to purchase, rent, or receive a handgun.

### **Licensee**

(p) “Licensee” means a person who holds a dealer's license.

### **Qualified handgun instructor**

(q) “Qualified handgun instructor” means a certified firearms instructor who:

(1) is recognized by the Maryland Police and Correctional Training commissions;



- (2) has a qualified handgun instructor license issued by the Secretary; or
- (3) has a certification issued by a nationally recognized firearms organization.

**Regulated firearm**

(r) “Regulated firearm” means:

- (1) a handgun; or
- (2) a firearm that is any of the following specific assault weapons or their copies, regardless of which company produced and manufactured that assault weapon:
  - (i) American Arms Spectre da Semiautomatic carbine;
  - (ii) AK-47 in all forms;
  - (iii) Algimec AGM-1 type semi-auto;
  - (iv) AR 100 type semi-auto;
  - (v) AR 180 type semi-auto;
  - (vi) Argentine L.S.R. semi-auto;
  - (vii) Australian Automatic Arms SAR type semi-auto;
  - (viii) Auto-Ordnance Thompson M1 and 1927 semi-automatics;
  - (ix) Barrett light .50 cal. semi-auto;
  - (x) Beretta AR70 type semi-auto;
  - (xi) Bushmaster semi-auto rifle;
  - (xii) Calico models M-100 and M-900;
  - (xiii) CIS SR 88 type semi-auto;
  - (xiv) Claridge HI TEC C-9 carbines;
  - (xv) Colt AR-15, CAR-15, and all imitations except Colt AR-15 Sporter H-BAR rifle;
  - (xvi) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and K-2;
  - (xvii) Dragunov Chinese made semi-auto;
  - (xviii) Famas semi-auto (.223 caliber);
  - (xix) Feather AT-9 semi-auto;
  - (xx) FN LAR and FN FAL assault rifle;
  - (xxi) FNC semi-auto type carbine;
  - (xxii) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;

- (xxiii) Steyr-AUG-SA semi-auto;
- (xxiv) Galil models AR and ARM semi-auto;
- (xxv) Heckler and Koch HK-91 A3, HK-93 A2, HK-94 A2 and A3;
- (xxvi) Holmes model 88 shotgun;
- (xxvii) Avtomat Kalashnikov semiautomatic rifle in any format;
- (xxviii) Manchester Arms “Commando” MK-45, MK-9;
- (xxix) Mandell TAC-1 semi-auto carbine;
- (xxx) Mossberg model 500 Bullpup assault shotgun;
- (xxxi) Sterling Mark 6;
- (xxxii) P.A.W.S. carbine;
- (xxxiii) Ruger mini-14 folding stock model (.223 caliber);
- (xxxiv) SIG 550/551 assault rifle (.223 caliber);
- (xxxv) SKS with detachable magazine;
- (xxxvi) AP-74 Commando type semi-auto;
- (xxxvii) Springfield Armory BM-59, SAR-48, G3, SAR-3, M-21 sniper rifle, M1A, excluding the M1 Garand;
- (xxxviii) Street sweeper assault type shotgun;
- (xxxix) Striker 12 assault shotgun in all formats;
- (xl) Unique F11 semi-auto type;
- (xli) Daewoo USAS 12 semi-auto shotgun;
- (xlii) UZI 9mm carbine or rifle;
- (xliii) Valmet M-76 and M-78 semi-auto;
- (xliv) Weaver Arms “Nighthawk” semi-auto carbine; or
- (xlv) Wilkinson Arms 9mm semi-auto “Terry”.

### **Rent**

(s) “Rent” means the temporary transfer for consideration of a regulated firearm that is taken from the property of the owner of the regulated firearm.

### **Secondary sale**

(t) “Secondary sale” means a sale of a regulated firearm in which neither party to the sale:

- (1) is a licensee;
- (2) is licensed by the federal government as a firearms dealer;
- (3) devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of earning a profit through the repeated purchase and resale of firearms; or
- (4) repairs firearms as a regular course of trade or business.

### **Secretary**

(u) “Secretary” means the Secretary of State Police or the Secretary's designee.

### **Straw purchase**

(v) “Straw purchase” means a sale of a regulated firearm in which a person uses another, known as the straw purchaser, to:

- (1) complete the application to purchase a regulated firearm;
- (2) take initial possession of the regulated firearm; and
- (3) subsequently transfer the regulated firearm to the person.

## **MD Code, Public Safety, § 5-106**

**Formerly cited as MD CODE Art. 27, § 443**

### **§ 5-106. Dealer's license**

#### **Required**

(a) A person must lawfully possess a dealer's license issued by the Secretary before the person engages in the business of selling, renting, or transferring regulated firearms.

#### **One license for each place of business**

(b) One dealer's license is required for each place of business where regulated firearms are sold.

**Effective: October 1, 2013**

## **MD Code, Public Safety, § 5-110**

**Formerly cited as MD CODE Art. 27, § 443**

### **§ 5-110. Disapproval of dealer's license application**

## **Grounds**

- (a) The Secretary shall disapprove an application for a dealer's license if:
- (1) the Secretary determines that the applicant supplied false information or made a false statement;
  - (2) the Secretary determines that the application is not properly completed;
  - (3) the Secretary receives a written notification from the applicant's licensed attending physician that the applicant suffers from a mental disorder and is a danger to the applicant or to another; or
  - (4) the Secretary determines that the applicant intends that a person who is not eligible to be issued a dealer's license or whose dealer's license has been revoked or suspended:
    - (i) will participate in the management or operation of the business for which the license is sought; or
    - (ii) holds a legal or equitable interest in the business for which the license is sought.

## **Notice**

- (b) If the Secretary disapproves an application for a dealer's license, the Secretary shall notify the applicant in writing of:
- (1) the disapproval of the application; and
  - (2) the reason the application was denied.

## **Effect of disapproval**

(c) A person whose application for a dealer's license has been disapproved may not engage in the business of selling, renting, or transferring regulated firearms, unless the disapproval has been subsequently withdrawn by the Secretary or overruled by a court in accordance with subsection (d) of this section.

## **Appeals**

- (d)(1) An applicant who is aggrieved because the Secretary has disapproved the application for a dealer's license may appeal to the circuit court of the county where the applicant's place of business is to be located.
- (2) The appeal must be filed not later than 30 days after the Secretary mails notification of disapproval to the applicant.
- (3) If the appeal is properly and timely filed, the court shall affirm or reverse the disapproval of the Secretary depending on whether the court finds that:
- (i) the applicant supplied false information or made a false statement; or
  - (ii) the application was not properly completed.

(4) The Secretary or the applicant may appeal the decision of the circuit court to the Court of Special Appeals.

**MD Code, Public Safety, § 5-111**

**Formerly cited as MD CODE Art. 27, § 443**

**§ 5-111. Term of dealer's license**

**In general**

(a) Unless a dealer's license is renewed for a 1-year term as provided in this section, a dealer's license expires on the first June 30 after its effective date.

**Applications for renewal**

(b)(1) Before a dealer's license expires, the licensee periodically may renew it for an additional 1-year term, if the licensee:

(i) is otherwise entitled to be licensed;

(ii) pays to the Secretary a renewal fee of \$25, payable to the Comptroller; and

(iii) submits to the Secretary a renewal application on the form that the Secretary provides.

(2) A refund or proration of the renewal fee is prohibited.

**MD Code, Public Safety, § 5-117**

**Formerly cited as MD CODE Art. 27, § 442**

**§ 5-117. Application for regulated firearm required**

A person must submit a firearm application in accordance with this subtitle before the person purchases, rents, or transfers a regulated firearm.

**Effective: October 1, 2013**

**MD Code, Public Safety, § 5-117.1**

**§ 5-117.1. Handgun qualification license required to sell, rent, or transfer  
handguns**

**Application of section**

(a) This section does not apply to:

(1) a licensed firearms manufacturer;

(2) a law enforcement officer or person who is retired in good standing from service with a law enforcement agency of the United States, the State, or a local law enforcement agency of the State;

(3) a member or retired member of the armed forces of the United States or the National Guard; or

(4) a person purchasing, renting, or receiving an antique, curio, or relic firearm, as defined in federal law or in determinations published by the Bureau of Alcohol, Tobacco, Firearms and Explosives.

### **Handgun qualification license required for purchaser, lessee, or transferees**

(b) A dealer or any other person may not sell, rent, or transfer a handgun to a purchaser, lessee, or transferee unless the purchaser, lessee, or transferee presents to the dealer or other person a valid handgun qualification license issued to the purchaser, lessee, or transferee by the Secretary under this section.

### **Requirements for purchase, rent, or receipt of handguns**

(c) A person may purchase, rent, or receive a handgun only if the person:

(1)(i) possesses a valid handgun qualification license issued to the person by the Secretary in accordance with this section;

(ii) possesses valid credentials from a law enforcement agency or retirement credentials from a law enforcement agency;

(iii) is an active or retired member of the armed forces of the United States or the National Guard and possesses a valid military identification card; or

(iv) is purchasing, renting, or receiving an antique, curio, or relic firearm, as defined in federal law or in determinations published by the Bureau of Alcohol, Tobacco, Firearms and Explosives; and

(2) is not otherwise prohibited from purchasing or possessing a handgun under State or federal law.

### **Issuance of handgun qualification license**

(d) Subject to subsections (f) and (g) of this section, the Secretary shall issue a handgun qualification license to a person who the Secretary finds:

(1) is at least 21 years old;

(2) is a resident of the State;

(3) except as provided in subsection (e) of this section, has demonstrated satisfactory completion, within 3 years prior to the submission of the application, of a firearms safety training course approved by the Secretary that includes:

- (i) a minimum of 4 hours of instruction by a qualified handgun instructor;
- (ii) classroom instruction on:
  - 1. State firearm law;
  - 2. home firearm safety; and
  - 3. handgun mechanisms and operation; and
- (iii) a firearms orientation component that demonstrates the person's safe operation and handling of a firearm; and
- (4) based on an investigation, is not prohibited by federal or State law from purchasing or possessing a handgun.

### **Exemptions from firearms safety training course requirements**

(e) An applicant for a handgun qualification license is not required to complete a firearms safety training course under subsection (d) of this section if the applicant:

- (1) has completed a certified firearms training course approved by the Secretary;
- (2) has completed a course of instruction in competency and safety in the handling of firearms prescribed by the Department of Natural Resources under § 10-301.1 of the Natural Resources Article;
- (3) is a qualified handgun instructor;
- (4) is an honorably discharged member of the armed forces of the United States or the National Guard;
- (5) is an employee of an armored car company and has a permit issued under Title 5, Subtitle 3 of this article; or
- (6) lawfully owns a regulated firearm.

### **Applications to Central Repository for State and national criminal history records check**

(f)(1) In this subsection, “Central Repository” means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(2) The Secretary shall apply to the Central Repository for a State and national criminal history records check for each applicant for a handgun qualification license.

(3) As part of the application for a criminal history records check, the Secretary shall submit to the Central Repository:

- (i) a complete set of the applicant's legible fingerprints taken in a format approved by the Director of the Central Repository and the Director of the Federal Bureau of Investigation;

(ii) the fee authorized under § 10-221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records; and

(iii) the mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check.

(4) The Central Repository shall provide a receipt to the applicant for the fees paid in accordance with paragraph (3)(ii) and (iii) of this subsection.

(5) In accordance with §§ 10-201 through 10-234 of the Criminal Procedure Article, the Central Repository shall forward to the applicant and the Secretary a printed statement of the applicant's criminal history information.

(6) Information obtained from the Central Repository under this section:

(i) is confidential and may not be disseminated; and

(ii) shall be used only for the licensing purpose authorized by this section.

(7) If criminal history record information is reported to the Central Repository after the date of the initial criminal history records check, the Central Repository shall provide to the Department of State Police Licensing Division a revised printed statement of the applicant's or licensee's State criminal history record.

### **Application form and fee**

(g) An applicant for a handgun qualification license shall submit to the Secretary:

(1) an application in the manner and format designated by the Secretary;

(2) a nonrefundable application fee to cover the costs to administer the program of up to \$50;

(3)(i) proof of satisfactory completion of:

1. a firearms safety training course approved by the Secretary; or

2. a course of instruction in competency and safety in the handling of firearms prescribed by the Department of Natural Resources under § 10-301.1 of the Natural Resources Article; or

(ii) a valid firearms instructor certification;

(4) any other identifying information or documentation required by the Secretary; and

(5) a statement made by the applicant under the penalty of perjury that the applicant is not prohibited under federal or State law from possessing a handgun.

### **Issuance or denial of handgun qualification license**

(h)(1) Within 30 days after receiving a properly completed application, the Secretary shall issue to the applicant:



(i) a handgun qualification license if the applicant is approved; or

(ii) a written denial of the application that contains:

1. the reason the application was denied; and

2. a statement of the applicant's appeal rights under subsection (l) of this section.

(2)(i) An individual whose fingerprints have been submitted to the Central Repository, and whose application has been denied, may request that the record of the fingerprints be expunged by obliteration.

(ii) Proceedings to expunge a record under this paragraph shall be conducted in accordance with § 10-105 of the Criminal Procedure Article.

(iii) On receipt of an order to expunge a fingerprint record, the Central Repository shall expunge by obliteration the fingerprints submitted as part of the application process.

(iv) An individual may not be charged a fee for the expungement of a fingerprint record in accordance with this paragraph.

### **Expiration of license**

(i) A handgun qualification license issued under this section expires 10 years from the date of issuance.

### **Renewal of license**

(j)(1) The handgun qualification license may be renewed for successive periods of 10 years each if, at the time of an application for renewal, the applicant:

(i) possesses the qualifications for the issuance of the handgun qualification license; and

(ii) submits a nonrefundable application fee to cover the costs to administer the program up to \$20.

(2) An applicant renewing a handgun qualification license under this subsection is not required to:

(i) complete the firearms safety training course required in subsection (d)(3) of this section; or

(ii) submit to a State and national criminal history records check as required in subsection (f) of this section.

### **Revocation of license**

(k)(1) The Secretary may revoke a handgun qualification license issued or renewed under this section on a finding that the licensee no longer satisfies the qualifications set forth in subsection (d) of this section.

(2) A person holding a handgun qualification license that has been revoked by the Secretary shall return the license to the Secretary within 5 days after receipt of the notice of revocation.

### **Hearing upon denial or revocation of license**

(1)(1) A person whose original or renewal application for a handgun qualification license is denied or whose handgun qualification license is revoked, may submit a written request to the Secretary for a hearing within 30 days after the date the written notice of the denial or revocation was sent to the aggrieved person.

(2) A hearing under this section shall be granted by the Secretary within 15 days after the request.

(3) A hearing and any subsequent proceedings of judicial review under this section shall be conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(4) A hearing under this section shall be held in the county of the legal residence of the aggrieved person.

### **Lost or stolen licenses**

(m)(1) If an original or renewal handgun qualification license is lost or stolen, a person may submit a written request to the Secretary for a replacement license.

(2) Unless the applicant is otherwise disqualified, the Secretary shall issue a replacement handgun qualification license on receipt of a written request and a nonrefundable fee to cover the cost of replacement up to \$20.

### **Regulations**

(n) The Secretary may adopt regulations to carry out the provisions of this section.

**Effective: July 1, 2017**

**MD Code, Public Safety, § 5-118  
Formerly cited as MD CODE Art. 27, § 442**

### **§ 5-118. Firearm application**

#### **In general**

(a) A firearm applicant shall:

(1) submit to a licensee or designated law enforcement agency a firearm application on the form that the Secretary provides; and

(2) pay to the licensee or designated law enforcement agency an application fee of \$10.

### **Required information**

(b) A firearm application shall contain:

(1) the firearm applicant's name, address, Social Security number, place and date of birth, height, weight, race, eye and hair color, signature, driver's or photographic identification soundex number, occupation, and regulated firearm information for each regulated firearm to be purchased, rented, or transferred;

(2) the date and time that the firearm applicant delivered the completed firearm application to the prospective seller or transferor;

(3) a statement by the firearm applicant under the penalty of perjury that the firearm applicant:

(i) is at least 21 years old;

(ii) has never been convicted of a disqualifying crime;

(iii) has never been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;

(iv) is not a fugitive from justice;

(v) is not a habitual drunkard;

(vi) is not addicted to a controlled dangerous substance or is not a habitual user;

(vii) does not suffer from a mental disorder as defined in § 10-101(i)(2) of the Health--General Article and have a history of violent behavior against the firearm applicant or another;

(viii) has never been found incompetent to stand trial under § 3-106 of the Criminal Procedure Article;

(ix) has never been found not criminally responsible under § 3-110 of the Criminal Procedure Article;

(x) has never been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10-101 of the Health--General Article;

(xi) has never been involuntarily committed to a facility as defined in § 10-101 of the Health--General Article;

(xii) is not under the protection of a guardian appointed by a court under § 13-201(c) or § 13-705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability;

(xiii) is not a respondent against whom:

1. a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article; or

2. an order for protection, as defined in § 4-508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; and

(xiv) if under the age of 30 years at the time of application, has not been adjudicated delinquent by a juvenile court for an act that would be a disqualifying crime if committed by an adult; and

(4) unless the applicant is excluded under § 5-117.1(a) of this subtitle, the applicant's handgun qualification license number.

### **Required warning**

(c) Each firearm application shall contain the following statement: “Any false information supplied or statement made in this application is a crime which may be punished by imprisonment for a period of not more than 3 years, or a fine of not more than \$5,000, or both.”.

### **Firearm application of corporation**

(d) If the firearm applicant is a corporation, a corporate officer who is a resident of the State shall complete and execute the firearm application.

**Effective: October 1, 2013**

**MD Code, Public Safety, § 5-120**

**Formerly cited as MD CODE Art. 27, § 442**

**§ 5-120. Copies of firearm application; fees**

### **Copy to Secretary**

(a)(1) On receipt of a firearm application, a licensee or designated law enforcement agency shall promptly forward one copy of it to the Secretary by electronic means approved by the Secretary.

(2) The copy of the firearm application forwarded to the Secretary shall contain the name, address, and signature of the prospective seller, lessor, or transferor.

### **Other copies**

(b)(1) The prospective seller, lessor, or transferor shall keep one copy of the firearm application for not less than 3 years.

(2) The firearm applicant is entitled to a copy of the firearm application.

### **Fees**

(c) The licensee or designated law enforcement agency shall forward the \$10 application fee with the firearm application to the Secretary.

**MD Code, Public Safety, § 5-121**

**Formerly cited as MD CODE Art. 27, § 442**

**§ 5-121. Investigation of firearm applicant**

**Secretary to conduct investigation**

(a) On receipt of a firearm application, the Secretary shall conduct an investigation promptly to determine the truth or falsity of the information supplied and statements made in the firearm application.

**Request for assistance**

(b) In conducting an investigation under this subsection, the Secretary may request the assistance of the Police Commissioner of Baltimore City, the chief of police in any county maintaining a police force, or the sheriff in a county not maintaining a police force.

**MD Code, Public Safety, § 5-122**

**Formerly cited as MD CODE Art. 27, § 442**

**§ 5-122. Disapproval of firearm application**

**Grounds**

(a) The Secretary shall disapprove a firearm application if:

(1) the Secretary determines that the firearm applicant supplied false information or made a false statement;

(2) the Secretary determines that the firearm application is not properly completed; or

(3) the Secretary receives written notification from the firearm applicant's licensed attending physician that the firearm applicant suffers from a mental disorder and is a danger to the firearm applicant or to another.

**Notice**

(b)(1) If the Secretary disapproves a firearm application, the Secretary shall notify the prospective seller, lessor, or transferor in writing of the disapproval within 7 days after the date that the executed firearm application is forwarded to the Secretary by certified mail or facsimile machine.

(2) After notifying the prospective seller, lessor, or transferor under paragraph (1) of this subsection, the Secretary shall notify the prospective purchaser, lessee, or transferee in writing of the disapproval.

(3) The date when the prospective seller, lessor, or transferor forwards the executed firearm application to the Secretary by certified mail or by facsimile

machine is the first day of the 7-day period allowed for notice of disapproval to the prospective seller, lessor, or transferor.

**MD Code, Public Safety, § 5-123**

**Formerly cited as MD CODE Art. 27, § 442**

**§ 5-123. Time for licensee to complete transactions**

**Seven-day waiting period**

(a) A licensee may not sell, rent, or transfer a regulated firearm until after 7 days following the time a firearm application is executed by the firearm applicant, in triplicate, and the original is forwarded by the prospective seller or transferor to the Secretary.

**Completion required in 90 days**

(b) A licensee shall complete the sale, rental, or transfer of a regulated firearm within 90 days after the firearm application was stamped by the Secretary as not being disapproved.

**Incomplete transactions**

(c)(1) If the sale, rental, or transfer of a regulated firearm is not completed within 90 days after the firearm application was stamped by the Secretary as not being disapproved, a licensee shall return the firearm application to the Secretary within 7 days.

(2) The Secretary shall void a firearm application returned under paragraph (1) of this subsection as an incomplete sale, rental, or transfer.

**Notification of completed transaction**

(d)(1)(i) A licensee who sells, rents, or transfers a regulated firearm in compliance with this subtitle shall forward a copy of the written notification of the completed transaction to the Secretary within 7 days after delivery of the regulated firearm.

(ii) The notification shall contain an identifying description of the regulated firearm, including its caliber, make, model, any manufacturer's serial number, and any other special or peculiar characteristic or marking by which the regulated firearm may be identified.

(2) The Secretary shall maintain a permanent record of all notifications received of completed sales, rentals, and transfers of regulated firearms in the State.

**MD Code, Public Safety, § 5-124**

**Formerly cited as MD CODE Art. 27, § 442**

## **§ 5-124. Secondary transactions**

### **Seven-day waiting period**

(a)(1) A person who is not a licensee may not sell, rent, transfer, or purchase a regulated firearm until after 7 days following the time a firearm application is executed by the firearm applicant, in triplicate, and the original is forwarded by a licensee to the Secretary.

(2) As an alternative to completing a secondary sale of a regulated firearm through a licensee, a prospective seller, lessor, or transferor and a prospective purchaser, lessee, or transferee may complete the transaction through a designated law enforcement agency.

### **Processing fee**

(b) A firearm applicant for a secondary sale of a regulated firearm through a licensee shall pay to the licensee a processing fee not exceeding \$20.

### **Completion required in 90 days**

(c) A person shall complete the sale, rental, or transfer of a regulated firearm within 90 days after the firearm application was stamped by the Secretary as not being disapproved.

### **Incomplete transactions**

(d)(1) If the sale, rental, or transfer of a regulated firearm is not completed within 90 days after the firearm application was stamped by the Secretary as not being disapproved, a person shall return the firearm application to the Secretary within 7 days.

(2) The Secretary shall void a firearm application returned under paragraph (1) of this subsection as an incomplete sale, rental, or transfer.

### **Notification of completed transaction**

(e)(1)(i) A person who sells, rents, or transfers a regulated firearm in compliance with this subtitle shall forward a copy of the written notification of the completed transaction to the Secretary within 7 days after delivery of the regulated firearm.

(ii) The notification shall contain an identifying description of the regulated firearm, including its caliber, make, model, any manufacturer's serial number, and any other special or peculiar characteristic or marking by which the regulated firearm may be identified.

(2) The Secretary shall maintain a permanent record of all notifications received of completed sales, rentals, and transfers of regulated firearms in the State.

**Effective: July 1, 2019**

**MD Code, Public Safety, § 5-132**  
**Formerly cited as MD CODE Art. 27, § 442C**  
**§ 5-132. Handgun safety devices**

**Definitions**

- (a)(1) In this section the following words have the meanings indicated.
- (2) “Authorized user” means the owner of a handgun or a person authorized by the owner to possess and use the handgun.
- (3) “External safety lock” means an external device that is:
- (i) attached to a handgun with a key or combination lock; and
  - (ii) designed to prevent a handgun from being discharged unless the device has been deactivated.
- (4) “Handgun” does not include a signal, starter, or blank pistol.
- (5) “Handgun Roster Board” means the Handgun Roster Board established under § 5-404 of this title.
- (6) “Integrated mechanical safety device” means a disabling or locking device that is:
- (i) built into a handgun; and
  - (ii) designed to prevent the handgun from being discharged unless the device has been deactivated.
- (7) “Personalized handgun” means a handgun manufactured with incorporated design technology that:
- (i) allows the handgun to be fired only by the authorized user; and
  - (ii) prevents any of the safety characteristics of the handgun from being readily deactivated.

**Scope of section**

- (b) This section does not apply to:
- (1) the purchase, sale, or transportation of a handgun to or by a federally licensed gun dealer or manufacturer that provides or services a handgun for:
    - (i) personnel of any unit of the federal government;
    - (ii) members of the armed forces of the United States or the National Guard;
    - (iii) law enforcement personnel of the State or any local law enforcement agency in the State while acting within the scope of their official duties; and



- (iv) an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition;
- (2) a firearm modified to be permanently inoperative;
- (3) the sale or transfer of a handgun by a federally licensed gun dealer or manufacturer covered under item (1) of this subsection;
- (4) the sale or transfer of a handgun by a federally licensed gun dealer or manufacturer to a lawful customer outside the State; or
- (5) an antique firearm.

### **Restriction on sale, rent, or transfer of handguns**

- (c)(1) A dealer may not sell, offer for sale, rent, or transfer in the State a handgun manufactured on or before December 31, 2002, unless the handgun is sold, offered for sale, rented, or transferred with an external safety lock.
- (2) On or after January 1, 2003, a dealer may not sell, offer for sale, rent, or transfer in the State a handgun manufactured on or after January 1, 2003, unless the handgun has an integrated mechanical safety device.

### **Report**

- (d)(1) The Handgun Roster Board annually shall:
  - (i) review the status of personalized handgun technology; and
  - (ii) on or before July 1, report its findings to the Governor and, in accordance with § 2-1257 of the State Government Article, to the General Assembly.
- (2) In reviewing the status of personalized handgun technology under paragraph (1) of this subsection, the Handgun Roster Board shall consider:
  - (i) the number and variety of models and calibers of personalized handguns that are available for sale;
  - (ii) each study, analysis, or other evaluation of personalized handguns conducted or commissioned by:
    1. the National Institute of Justice;
    2. a federal, State, or local law enforcement laboratory; or
    3. any other entity with an expertise in handgun technology; and
  - (iii) any other information that the Handgun Roster Board considers relevant.

**Effective: October 1, 2018**

**MD Code, Public Safety, § 5-133**

**Formerly cited as MD CODE Art. 27, § 445; MD CODE Art. 27, § 449**

**§ 5-133. Restrictions on possession of regulated firearms**

**Preemption by State**

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the possession by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the possession of a regulated firearm.

**Possession of regulated firearm prohibited**

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

- (1) has been convicted of a disqualifying crime;
- (2) has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;
- (3) is a fugitive from justice;
- (4) is a habitual drunkard;
- (5) is addicted to a controlled dangerous substance or is a habitual user;
- (6) 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 person or another;
- (7) has been found incompetent to stand trial under § 3-106 of the Criminal Procedure Article;
- (8) has been found not criminally responsible under § 3-110 of the Criminal Procedure Article;
- (9) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10-101 of the Health--General Article;
- (10) has been involuntarily committed to a facility as defined in § 10-101 of the Health--General Article;
- (11) is under the protection of a guardian appointed by a court under § 13-201(c) or § 13-705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability;
- (12) except as provided in subsection (e) of this section, is a respondent against whom:
  - (i) a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4-508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; or

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

### **Penalty for possession by convicted felon**

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

(i) a crime of violence;

(ii) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, § 5-613, § 5-614, § 5-621, or § 5-622 of the Criminal Law Article; or

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

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

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

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

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

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

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

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

(5) 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.

### **Possession by person under age of 21 years prohibited; exceptions**

(d)(1) Except as provided in paragraph (2) of this subsection, a person who is under the age of 21 years may not possess a regulated firearm.

(2) Unless a person is otherwise prohibited from possessing a regulated firearm, this subsection does not apply to:

(i) the temporary transfer or possession of a regulated firearm if the person is:

1. under the supervision of another who is at least 21 years old and who is not prohibited by State or federal law from possessing a firearm; and

2. acting with the permission of the parent or legal guardian of the transferee or person in possession;

(ii) the transfer by inheritance of title, and not of possession, of a regulated firearm;

(iii) a member of the armed forces of the United States or the National Guard while performing official duties;

(iv) the temporary transfer or possession of a regulated firearm if the person is:

1. participating in marksmanship training of a recognized organization; and

2. under the supervision of a qualified instructor;

(v) a person who is required to possess a regulated firearm for employment and who holds a permit under Subtitle 3 of this title; or

(vi) the possession of a firearm for self-defense or the defense of others against a trespasser into the residence of the person in possession or into a residence in which the person in possession is an invited guest.

### **Transport of regulated firearms**

(e) This section does not apply to a respondent transporting a regulated firearm if the respondent is carrying a civil protective order requiring the surrender of the regulated firearm and:

(1) the regulated firearm is unloaded;

(2) the respondent has notified the law enforcement unit, barracks, or station that the regulated firearm is being transported in accordance with the civil protective order; and

(3) the respondent transports the regulated firearm directly to the law enforcement unit, barracks, or station.

### **Surrendering of regulated firearms to State or local law enforcement agency or federally licensed firearms dealer**

(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 agency or a federally licensed firearms dealer.

**Effective: October 1, 2019**

**MD Code, Public Safety, § 5-134**

**Formerly cited as MD CODE Art. 27, § 441; MD CODE Art. 27, § 445; MD CODE Art. 27, § 449**

**§ 5-134. Restrictions on sale, rental, or transfer of regulated firearms**

**Preemption by State**

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a regulated firearm, and the State preempts the right of any local jurisdiction to regulate the transfer of a regulated firearm.

**Sale, rental, or transfer of regulated firearm prohibited**

(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) 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 Police Training and Standards Commission or that meets standards established by the 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.

### **Exemption from certified firearms training course requirement**

(c) A person is not required to complete a certified firearms safety training course under subsection (b)(14) of this section if the person:

(1) has already completed a certified firearms safety training course required under subsection (b)(14) of this section;

(2) is a law enforcement officer of the State or any local law enforcement agency in the State;

(3) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;

(4) is a member of an organization that is required by federal law governing its specific business or activity to maintain handguns and applicable ammunition;

(5) has been issued a permit to carry a handgun under Subtitle 3 of this title; or

(6) is the borrower of a firearm.

### **Sale, rental, or transfer of regulated firearm to minor prohibited**

(d)(1) A person may not sell, rent, or transfer:

(i) ammunition solely designed for a regulated firearm to a person who is under the age of 21 years; or

(ii) 1. a firearm other than a regulated firearm to a minor;

2. ammunition for a firearm to a minor;

3. pepper mace, which is an aerosol propelled combination of highly disabling irritant based products and is also known as oleo-resin capsicum (O.C.) spray, to a minor; or

4. another deadly weapon to a minor.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

**Effective: October 1, 2013**

**MD Code, Public Safety, § 5-145**

**§ 5-145. Records retention requirements of licensed firearm dealers**

### **In general**

(a)(1) A licensed dealer shall keep records of all receipts, sales, and other dispositions of firearms affected in connection with the licensed dealer's business.

(2) The Secretary shall adopt regulations specifying:

(i) subject to paragraph (3) of this subsection, the information that the records shall contain;

(ii) the time period for which the records are to be kept; and

(iii) the form in which the records are to be kept.

(3) The records shall include:

(i) the name and address of each person from whom the dealer acquires a firearm and to whom the dealer sells or otherwise disposes of a firearm;

(ii) a precise description, including make, model, caliber, and serial number of each firearm acquired, sold, or otherwise disposed of; and

(iii) the date of each acquisition, sale, or other disposition.

(4) Records maintained under 18 U.S.C. § 923(g)(1)(a) may be used to satisfy the requirements of this section, if the Secretary is granted access to those records.

### **Information submitted to Secretary**

(b)(1) When required by a letter issued by the Secretary, a licensee shall submit to the Secretary the information required to be kept under subsection (a) of this section for the time periods specified by the Secretary.

(2) The Secretary shall determine the form and method by which the records shall be maintained.

### **Discontinuance of firearms business**

(c) When a firearms business is discontinued and succeeded by a new licensee, the records required to be kept under this section shall reflect the business discontinuance and succession and shall be delivered to the successor licensee.

### **Licensees required to respond within 48 hours to information request from Secretary**

(d)(1) A licensee shall respond within 48 hours after receipt of a request from the Secretary for information contained in the records required to be kept under this section when the information is requested in connection with a bona fide criminal investigation.

(2) The information requested under this subsection shall be provided orally or in writing, as required by the Secretary.

(3) The Secretary may implement a system by which a licensee can positively establish that a person requesting information by telephone is authorized by the Secretary to request the information.

### **Information relating to identifies of persons unlawfully purchasing or receiving firearms**

(e) The Secretary may make available to a federal, State, or local law enforcement agency any information that the Secretary obtains under this section relating to the identities of persons who have unlawfully purchased or received firearms.

### **Inspection of inventory and records**

(f) The Secretary:

(1) shall inspect the inventory and records of a licensed dealer at least once every 2 years; and

(2) may inspect the inventory and records at any time during the normal business hours of the licensed dealer's business.

### **Fines and penalties for violation of section**

(g)(1) A person who violates this section is subject to a civil penalty not exceeding \$1,000 imposed by the Secretary.

(2) For a second or subsequent offense, a person who knowingly violates this section is guilty of a misdemeanor and is subject to imprisonment not exceeding 3 years or a fine not exceeding \$10,000 or both.



(3) The penalties provided in this subsection are not intended to apply to inconsequential or inadvertent errors.

**Effective: October 1, 2022**

**MD Code, Public Safety, § 5-145.1**

**§ 5-145.1. Security requirements for licensed firearms dealers**

**In general**

(a) A licensed dealer may not conduct business and store firearms at a location unless:

(1) the premises on which the licensed dealer operates is equipped with security features, including:

(i) equipment capable of filming and recording video footage inside and outside buildings where firearms are stored;

(ii) at least one of the following features designed to prevent unauthorized entry installed on all exterior doors and windows of all buildings where firearms are stored:

1. bars;

2. security screens;

3. commercial grade metal doors;

4. grates; or

5. other physical barriers approved by the Secretary;

(iii) a burglary alarm system that is continually monitored; and

(iv) if practicable, physical barriers designed to prevent the use of motor vehicles to breach all buildings where firearms are stored; or

(2) outside business hours, the licensed dealer locks all firearms stored on the premises in:

(i) a vault;

(ii) a safe; or

(iii) a room or building that meets the requirements under item (1) of this subsection.

**Penalties for violation of section**

(b)(1) This subsection does not apply if the equipment or alarm system became temporarily inoperable at no fault of the licensed dealer.

(2) A person who violates this section is subject to a civil penalty not exceeding \$1,000 imposed by the Secretary.

(3) In addition to the penalty imposed under paragraph (2) of this subsection, a person who knowingly and willfully violates this section is subject to:

- (i) for a second offense, suspension of the person's dealer's license; and
- (ii) for a third or subsequent offense, revocation of the person's dealer's license.

### **Regulations**

(c) The Secretary shall adopt rules and regulations to determine whether a licensed dealer has met the requirements of subsection (a) of this section.

**Effective: October 1, 2018**

**MD Code, Public Safety, § 5-205**

**Formerly cited as MD CODE Art. 27, § 481D**

### **§ 5-205. Possession by person with mental disorder**

#### **Antique firearms**

(a) This subtitle does not apply to a rifle or shotgun that is an antique firearm as defined in § 4-201 of the Criminal Law Article.

#### **Persons prohibited from possessing a rifle or shotgun**

(b) A person may not possess a rifle or shotgun if the person:

- (1) has been convicted of a disqualifying crime as defined in § 5-101 of this title;
- (2) has been convicted of a violation classified as a crime under common law and received a term of imprisonment of more than 2 years;
- (3) is a fugitive from justice;
- (4) is a habitual drunkard as defined in § 5-101 of this title;
- (5) is addicted to a controlled dangerous substance or is a habitual user as defined in § 5-101 of this title;
- (6) 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 person or another;
- (7) has been found incompetent to stand trial under § 3-106 of the Criminal Procedure Article;
- (8) has been found not criminally responsible under § 3-110 of the Criminal Procedure Article;

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

(10) has been involuntarily committed to a facility as defined in § 10-101 of the Health--General Article;

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

(12) except as provided in subsection (c) of this section, is a respondent against whom:

(i) a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4-508.1 of the Family Law Article, has been issued by a court of another state or a Native American tribe and is in effect; or

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

### **Persons transporting rifle or shotgun**

(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:

(i) the rifle or shotgun is unloaded;

(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

(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 agency or a federally licensed firearms dealer.

### **Misdemeanor violations**

(d) 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 \$1,000 or both.

### **Relief from disqualification**

(e) A person who is disqualified from owning a rifle or shotgun under subsection (b)(6), (7), (8), (9), (10), or (11) of this section may seek relief from the disqualification in accordance with § 5-133.3 of this title.

**Effective: October 1, 2013**

### **MD Code, Public Safety, § 5-206**

#### **§ 5-206. Persons convicted of crimes of violence prohibited from possessing a rifle or shotgun**

##### **In general**

(a) A person may not possess a rifle or shotgun if the person was previously convicted of:

- (1) a crime of violence as defined in § 5-101 of this title;
- (2) a violation of § 5-602, § 5-603, § 5-604, § 5-605, § 5-612, § 5-613, or § 5-614 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 subsection if committed in this State.

##### **Felony violation**

(b) A person who violates this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 15 years.

##### **Separate crimes**

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

**Effective: March 14, 2021**

### **MD Code, Public Safety, § 5-207**

#### **§ 5-207. Sale, rent, transfer, or loan prohibited**

##### **Preemption**

(a) This section supersedes any restriction that a local jurisdiction in the State imposes on the transfer by a private party of a rifle or shotgun, and the State preempts the right of any local jurisdiction to regulate the transfer of a rifle or shotgun.

**“Loan” defined**

(b) In this section, “loan” includes a temporary gratuitous exchange of a rifle or shotgun.

**In general**

(c) A licensee or any other person may not sell, rent, transfer, or loan a rifle or shotgun to a purchaser, lessee, transferee, or recipient who the licensee or other person knows or has reasonable cause to believe:

- (1) has been convicted of a disqualifying crime, as defined in § 5-101 of this title;
- (2) has been convicted of a violation classified as a common law crime and received a term of imprisonment of more than 2 years;
- (3) is a fugitive from justice;
- (4) is a habitual drunkard as defined in § 5-101 of this title;
- (5) is addicted to a controlled dangerous substance or is a habitual user as defined in § 5-101 of this title;
- (6) 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, transferee, recipient, or another, unless the purchaser, lessee, transferee, or recipient has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, transferee, or recipient of the disqualification;
- (7) has been found incompetent to stand trial under § 3-106 of the Criminal Procedure Article, unless the purchaser, lessee, transferee, or recipient has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, transferee, or recipient of the disqualification;
- (8) has been found not criminally responsible under § 3-110 of the Criminal Procedure Article, unless the purchaser, lessee, transferee, or recipient has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, transferee, or recipient of the disqualification;
- (9) has been voluntarily admitted for more than 30 consecutive days to a facility as defined in § 10-101 of the Health--General Article, unless the purchaser, lessee, transferee, or recipient has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, transferee, or recipient of the disqualification;
- (10) has been involuntarily committed for more than 30 consecutive days to a facility as defined in § 10-101 of the Health--General Article, unless the purchaser, lessee, transferee, or recipient has received a certificate from the Maryland

Department of Health relieving the purchaser, lessee, transferee, or recipient of the disqualification;

(11) is under the protection of a guardian appointed by a court under § 13-201(c) or § 13-705 of the Estates and Trusts Article, except for cases in which the appointment of a guardian is solely a result of a physical disability, unless the purchaser, lessee, transferee, or recipient has received a certificate from the Maryland Department of Health relieving the purchaser, lessee, transferee, or recipient of the disqualification;

(12) is a respondent against whom:

(i) a current non ex parte civil protective order has been entered under § 4-506 of the Family Law Article; or

(ii) an order for protection, as defined in § 4-508.1 of the Family Law Article, has been issued by a court of another state or Native American tribe and is in effect;

(13) 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;

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

(15) is a participant in a straw purchase; or

(16) intends to use the rifle or shotgun to:

(i) commit a crime; or

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

### **Penalties**

(d) 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 or both.

## **MD Code, Public Safety, § 5-303**

### **§ 5-303. Permit required**

A person shall have a permit issued under this subtitle before the person carries, wears, or transports a handgun.

**Effective: October 1, 2019**

## **MD Code, Public Safety, § 5-304**

**Formerly cited as MD CODE Art. 27, § 36E**

**§ 5-304. Application for permit**

**Oath**

(a) An application for a permit shall be made under oath.

**Fees--In general**

(b)(1) Subject to subsections (c) and (d) of this section, the Secretary may charge a nonrefundable fee payable when an application is filed for a permit.

(2) The fee may not exceed:

(i) \$75 for an initial application;

(ii) \$50 for a renewal or subsequent application; and

(iii) \$10 for a duplicate or modified permit.

(3) The fees under this subsection are in addition to the fees authorized under § 5-305 of this subtitle.

**Fees--Reduction**

(c) The Secretary may reduce the fee under subsection (b) of this section accordingly for a permit that is granted for one day only and at one place only.

**Fees--Exceptions**

(d) The Secretary may not charge a fee under subsection (b) of this section to:

(1) a State, county, or municipal public safety employee who is required to carry, wear, or transport a handgun as a condition of governmental employment; or

(2) a retired law enforcement officer of the State or a county or municipal corporation of the State.

**Fees--Method of payment**

(e) The applicant shall pay a fee under this section by an electronic check, a credit card, or a method of online payment approved by the Secretary.

**Effective: October 1, 2013**

**MD Code, Public Safety, § 5-306**

**Formerly cited as MD CODE Art. 27, § 36E**

**§ 5-306. Qualifications for permit**

## **In general**

(a) Subject to subsection (c) of this section, the Secretary shall issue a permit within a reasonable time to a person who the Secretary finds:

(1) is an adult;

(2)(i) has not been convicted of a felony or of a misdemeanor for which a sentence of imprisonment for more than 1 year has been imposed; or

(ii) if convicted of a crime described in item (i) of this item, has been pardoned or has been granted relief under 18 U.S.C. § 925(c);

(3) has not been convicted of a crime involving the possession, use, or distribution of a controlled dangerous substance;

(4) is not presently an alcoholic, addict, or habitual user of a controlled dangerous substance unless the habitual use of the controlled dangerous substance is under legitimate medical direction;

(5) except as provided in subsection (b) of this section, has successfully completed prior to application and each renewal, a firearms training course approved by the Secretary that includes:

(i) 1. for an initial application, a minimum of 16 hours of instruction by a qualified handgun instructor; or

2. for a renewal application, 8 hours of instruction by a qualified handgun instructor;

(ii) classroom instruction on:

1. State firearm law;

2. home firearm safety; and

3. handgun mechanisms and operation; and

(iii) a firearms qualification component that demonstrates the applicant's proficiency and use of the firearm; and

(6) based on an investigation:

(i) has not exhibited a propensity for violence or instability that may reasonably render the person's possession of a handgun a danger to the person or to another; and

(ii) has good and substantial reason to wear, carry, or transport a handgun, such as a finding that the permit is necessary as a reasonable precaution against apprehended danger.

## **Exemption from completing certified firearms training course**



(b) An applicant for a permit is not required to complete a certified firearms training course under subsection (a) of this section if the applicant:

(1) is a law enforcement officer or a person who is retired in good standing from service with a law enforcement agency of the United States, the State, or any local law enforcement agency in the State;

(2) is a member, retired member, or honorably discharged member of the armed forces of the United States or the National Guard;

(3) is a qualified handgun instructor; or

(4) has completed a firearms training course approved by the Secretary.

### **Applicants under the age of 30**

(c) An applicant under the age of 30 years is qualified only if the Secretary finds that the applicant has not been:

(1) committed to a detention, training, or correctional institution for juveniles for longer than 1 year after an adjudication of delinquency by a juvenile court; or

(2) adjudicated delinquent by a juvenile court for:

(i) an act that would be a crime of violence if committed by an adult;

(ii) an act that would be a felony in this State if committed by an adult; or

(iii) an act that would be a misdemeanor in this State that carries a statutory penalty of more than 2 years if committed by an adult.

### **Handgun qualification licenses**

(d) The Secretary may issue a handgun qualification license, without an additional application or fee, to a person who:

(1) meets the requirements for issuance of a permit under this section; and

(2) does not have a handgun qualification license issued under § 5-117. 1 of this title.

## **MD Code, Public Safety, § 5-307**

### **Formerly cited as MD CODE Art. 27, § 36E**

#### **§ 5-307. Scope of permit**

### **In general**

(a) A permit is valid for each handgun legally in the possession of the person to whom the permit is issued.

### **Limitations**

(b) The Secretary may limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective.

**Effective: October 1, 2017**

**MD Code, Public Safety, § 5-309**

**Formerly cited as MD CODE Art. 27, § 36E**

**§ 5-309. Term and renewal of permit**

**Term of permit**

(a) Except as provided in subsection (d) of this section, a permit expires on the last day of the holder's birth month following 2 years after the date the permit is issued.

**Renewal of permit**

(b) Subject to subsection (c) of this section, a permit may be renewed for successive periods of 3 years each if, at the time of an application for renewal, the applicant possesses the qualifications for the issuance of a permit and pays the renewal fee stated in this subtitle.

**Fingerprint requirement**

(c) A person who applies for a renewal of a permit is not required to be fingerprinted unless the Secretary requires a set of the person's fingerprints to resolve a question of the person's identity.

**Alternative expiration date**

(d) The Secretary may establish an alternative expiration date for a permit to coincide with the expiration of a license, certification, or commission for:

- (1) a private detective under Title 13 of the Business Occupations and Professions Article;
- (2) a security guard under Title 19 of the Business Occupations and Professions Article; or
- (3) a special police officer under § 3-306 of this article.

**MD Code, Public Safety, § 5-313**

**Formerly cited as MD CODE Art. 27, § 36E**

**§ 5-313. Failure to return revoked permit**

## **Prohibited**

(a) A person may not fail to return a revoked permit.

## **Penalty**

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine of not less than \$100 or exceeding \$1,000 or both.

### **MD Code, Public Safety, § 5-314**

**Formerly cited as MD Crim Law § 4-207; MD CODE Art. 27, § 36E**

#### **§ 5-314. Carrying, wearing, or transporting handgun while under influence of alcohol or drugs**

## **Prohibited**

(a) A person who holds a permit may not wear, carry, or transport a handgun while the person is under the influence of alcohol or drugs.

## **Penalty**

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

**Effective: March 27, 2019**

### **MD Code, Public Safety, § 5-601**

#### **§ 5-601. Definitions**

## **In general**

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

## **Ammunition**

(b) “Ammunition” has the meaning stated in § 5-133.1 of this title.

## **Extreme risk protective order**

(c) “Extreme risk protective order” means a civil interim, temporary, or final protective order issued in accordance with this subtitle.

## **Firearm**

(d) “Firearm” has the meaning stated in § 5-101 of this title.

## **Petitioner**

(e)(1) “Petitioner” means an individual who files a petition for an extreme risk protective order under this subtitle.

(2) “Petitioner” includes:

(i) a physician, psychologist, clinical social worker, licensed clinical professional counselor, clinical nurse specialist in psychiatric and mental health nursing, psychiatric nurse practitioner, licensed clinical marriage or family therapist, or health officer or designee of a health officer who has examined the individual;

(ii) a law enforcement officer;

(iii) the spouse of the respondent;

(iv) a cohabitant of the respondent;

(v) a person related to the respondent by blood, marriage, or adoption;

(vi) an individual who has a child in common with the respondent;

(vii) a current dating or intimate partner of the respondent; and

(viii) a current or former legal guardian of the respondent.

## **Respondent**

(f) “Respondent” means a person against whom a petition for an extreme risk protective order is filed.

**Effective: October 1, 2018**

**MD Code, Public Safety, § 5-602**

### **§ 5-602. Petition for an extreme risk protective order**

#### **Contents**

(a)(1) A petition for an extreme risk protective order shall:

(i) be signed and sworn to by the petitioner under the penalty of perjury;

(ii) include any information known to the petitioner that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm;

(iii) set forth specific facts in support of the information described in item (ii) of this paragraph;

(iv) explain the basis for the petitioner's knowledge of the supporting facts, including a description of the behavior and statements of the respondent or any

other information that led the petitioner to believe that the respondent presents an immediate and present danger of causing personal injury to the respondent or others;

(v) describe the number, types, and location of any known firearms believed to be possessed by the respondent; and

(vi) include any supporting documents or information regarding:

1. any unlawful, reckless, or negligent use, display, storage, possession, or brandishing of a firearm by the respondent;
2. any act or threat of violence the respondent made against the respondent or against another, whether or not the threat of violence involved a firearm;
3. any violation by the respondent of a protective order under Title 4, Subtitle 5 of the Family Law Article;
4. any violation by the respondent of a peace order under Title 3, Subtitle 15 of the Courts Article; and
5. any abuse of a controlled dangerous substance or alcohol by the respondent, including any conviction for a criminal offense involving a controlled dangerous substance or alcohol.

(2) A petition for an extreme risk protective order may include, to the extent disclosure is not otherwise prohibited, health records or other health information concerning the respondent.

### **Filing the petition**

(b) A petitioner seeking an extreme risk protective order under this subtitle may file a petition with:

- (1) the District Court; or
- (2) when the Office of the District Court Clerk is closed, a District Court commissioner.

### **Confidentiality of court records relating to petition**

(c)(1) All court records relating to a petition for an extreme risk protective order made under this subtitle are confidential and the contents may not be divulged, by subpoena or otherwise, except by order of the court on good cause shown.

(2) This subsection does not prohibit review of a court record relating to a petition by:

- (i) personnel of the court;
- (ii) the respondent or counsel for the respondent;
- (iii) authorized personnel of the Maryland Department of Health;

(iv) authorized personnel of a local core service agency or local behavioral health authority;

(v) a law enforcement agency; or

(vi) a person authorized by a court order on good cause shown.

### **Liability of petitioner**

(d) A petitioner who, in good faith, files a petition under this subtitle is not civilly or criminally liable for filing the petition.

### **Disclosure of health records or other health information**

(e) Nothing in this subtitle may be interpreted to require a health care provider to disclose health records or other health information concerning a respondent except:

(1) in accordance with a subpoena directing delivery of the records or information to the court under seal; or

(2) by order of the court.

**Effective: October 1, 2018**

**MD Code, Public Safety, § 5-603**

### **§ 5-603. Interim extreme risk protective order**

#### **Prohibiting possession of a firearm; emergency mental health evaluation**

(a)(1) When a petition is filed with a District Court commissioner under § 5-602(b)(2) of this subtitle, the commissioner may enter an interim extreme risk protective order to prohibit the respondent from possessing a firearm if the commissioner finds that there are reasonable grounds to believe that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.

(2) In determining whether to enter an interim extreme risk protective order under this section, the commissioner shall consider:

(i) all relevant evidence presented by the petitioner; and

(ii) the amount of time that has elapsed since any of the events described in the petition.

(3) The interim extreme risk protective order shall:

(i) order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession; and

(ii) prohibit the respondent from purchasing or possessing any firearm or ammunition for the duration of the interim extreme risk protective order.

(4) If, based on the petition, the commissioner finds probable cause to believe that the respondent meets the requirements for emergency evaluation under Title 10, Subtitle 6 of the Health--General Article, the commissioner shall refer the respondent to law enforcement for a determination of whether the respondent should be taken for an emergency evaluation.

### **Date, time, and location of hearings**

(b)(1)(i) An interim extreme risk protective order shall state the date, time, and location for a temporary extreme risk protective order hearing and a tentative date, time, and location for a final extreme risk protective order hearing.

(ii) Except as provided in subsection (e) of this section, or unless the judge continues the hearing for good cause, a temporary extreme risk protective order hearing shall be held on the first or second day on which a District Court judge is sitting after issuance of the interim extreme risk protective order.

(2) An interim extreme risk protective order shall include in at least 10 point bold type:

(i) notice to the respondent that:

1. the respondent must give the court written notice of each change of address;
2. if the respondent fails to appear at the temporary extreme risk protective order hearing or any later hearing, the respondent may be served with any orders or notices in the case by first-class mail at the respondent's last known address;
3. the date, time, and location of the final extreme risk protective order hearing is tentative only and subject to change;
4. if the respondent does not attend the temporary extreme risk protective order hearing, the respondent may call the Office of the District Court Clerk at the number provided in the order to find out the actual date, time, and location of any final extreme risk protective order hearing; and
5. if the respondent fails to appear at the final extreme risk protective order hearing, a final extreme risk protective order may be entered in the respondent's absence and served on the respondent by first-class mail;

(ii) a statement that the respondent may consult an attorney regarding any matter related to the order, and that an attorney should be contacted promptly so that the attorney may assist the respondent;

(iii) a statement specifying the contents and duration of a temporary extreme risk protective order;

(iv) notice to the petitioner and respondent that, at the hearing, a judge may issue a temporary extreme risk protective order prohibiting the respondent from possessing a firearm or may deny the petition, whether or not the respondent is in court;

(v) notice of:

1. the requirements for surrendering firearms and ammunition in the respondent's possession to law enforcement authorities; and
2. the process for reclaiming firearms and ammunition on the expiration or termination of the order;

(vi) a warning to the respondent that violation of an interim extreme risk protective order is a crime and that a law enforcement officer will arrest the respondent, with or without a warrant, and take the respondent into custody if the officer has probable cause to believe that the respondent has violated a provision of the interim extreme risk protective order; and

(vii) the phone number of the Office of the District Court Clerk.

### **Copy of order forwarded to law enforcement agency and transfer of case to clerk of court**

(c) Whenever a commissioner issues an interim extreme risk protective order, the commissioner shall:

- (1) immediately forward a copy of the petition and interim extreme risk protective order to the appropriate law enforcement agency for service on the respondent; and
- (2) before the hearing scheduled for the temporary extreme risk protective order, transfer the case file to the clerk of court.

### **Service of order by law enforcement officer**

(d) A law enforcement officer shall:

- (1) immediately on receipt of an interim extreme risk protective order, serve it on the respondent named in the order;
- (2) make a return of service to the clerk of court; and
- (3) within 2 hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.

### **Duration of interim extreme risk protective order**

(e)(1) Except as provided in paragraph (2) of this subsection, an interim extreme risk protective order shall be effective until the earlier of:



- (i) the temporary extreme risk protective order hearing under § 5-604 of this subtitle; or
  - (ii) the end of the second business day the Office of the District Court Clerk is open following the issuance of the interim extreme risk protective order.
- (2) If the court is closed on the day on which the interim extreme risk protective order is due to expire, the interim extreme risk protective order shall be effective until the next day on which the court is open, at which time the court shall hold a temporary extreme risk protective order hearing.

**Effective: October 1, 2018**

**MD Code, Public Safety, § 5-604**

**§ 5-604. Temporary extreme risk protective order**

**Prohibiting possession of a firearm, emergency mental health evaluation**

(a)(1) After a hearing on a petition, whether ex parte or otherwise, a judge may enter a temporary extreme risk protective order to prohibit the respondent from possessing a firearm if the judge finds that there are reasonable grounds to believe that the respondent poses an immediate and present danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.

(2) In determining whether to enter a temporary extreme risk protective order under this section, the judge shall consider:

- (i) all relevant evidence presented by the petitioner; and
- (ii) the amount of time that has elapsed since any of the events described in the petition.

(3) The temporary extreme risk protective order shall:

- (i) order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession; and
- (ii) prohibit the respondent from purchasing or possessing any firearm or ammunition for the duration of the temporary extreme risk protective order.

(4) If the judge finds probable cause to believe that the respondent meets the requirements for emergency evaluation under Title 10, Subtitle 6 of the Health--General Article, the judge shall refer the respondent for emergency evaluation.

**Service of order by law enforcement officer**

(b)(1) Except as provided in paragraph (2) of this subsection, a law enforcement officer shall:

- (i) immediately serve the temporary extreme risk protective order on the respondent under this section; and

(ii) within 2 hours after service of the order on the respondent, electronically notify the Department of Public Safety and Correctional Services of the service using an electronic system approved and provided by the Department of Public Safety and Correctional Services.

(2) A respondent who has been served with an interim extreme risk protective order under § 5-603 of this subtitle shall be served with the temporary extreme risk protective order in open court or, if the respondent is not present at the temporary extreme risk protective order hearing, by first-class mail at the respondent's last known address.

(3) There shall be no cost to the petitioner for service of the temporary extreme risk protective order.

### **Duration of order**

(c)(1) Except as otherwise provided in this subsection, the temporary extreme risk protective order shall be effective for not more than 7 days after service of the order.

(2) The judge may extend the temporary extreme risk protective order as needed, but not to exceed 6 months, to effectuate service of the order where necessary to provide protection or for other good cause.

(3) If the court is closed on the day on which the temporary extreme risk protective order is due to expire, the temporary extreme risk protective order shall be effective until the second day on which the court is open, by which time the court shall hold a final extreme risk protective order hearing.

### **Conditions to waive temporary extreme risk protective order hearing**

(d) The judge may proceed with a final extreme risk protective order hearing instead of a temporary extreme risk protective order hearing if:

(1)(i) the respondent appears at the hearing;

(ii) the respondent has been served with an interim extreme risk protective order; or

(iii) the court otherwise has personal jurisdiction over the respondent; and

(2) the petitioner and the respondent expressly consent to waive the temporary extreme risk protective order hearing.

**Effective: October 1, 2018**

**MD Code, Public Safety, § 5-605**

**§ 5-605. Final extreme risk protective order**

### **Opportunity of respondent to be heard**

(a) A respondent under § 5-604 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final extreme risk protective order.

### **Date and time of final extreme risk protective order hearing**

(b)(1)(i) The temporary extreme risk protective order shall state the date and time of the final extreme risk protective order hearing.

(ii) Except as provided in § 5-604(c) of this subtitle and subparagraph (iii) of this paragraph, or unless continued for good cause, the final extreme risk protective order hearing shall be held not later than 7 days after the temporary extreme risk protective order is served on the respondent.

(iii) On request of the respondent, a final extreme risk protective order hearing may be rescheduled for a date not later than 30 days after the date on which the hearing was initially scheduled.

(2) The temporary extreme risk protective order shall include notice to the respondent:

(i) in at least 10 point bold type, that if the respondent fails to appear at the final extreme risk protective order hearing, a final extreme risk protective order may be entered in the respondent's absence and the respondent may be served by first-class mail at the respondent's last known address with the final extreme risk protective order and all other notices concerning the final extreme risk protective order;

(ii) of the contents of a final extreme risk protective order;

(iii) that the final extreme risk protective order shall be effective for the period stated in the order, not to exceed 1 year, unless the judge extends the term of the order under § 5-606(a)(2) of this subtitle;

(iv) that the respondent may consult an attorney regarding any matter related to the order, and that an attorney should be contacted promptly so that the attorney may assist the respondent;

(v) of the requirements for surrendering firearms and ammunition in the respondent's possession to law enforcement authorities;

(vi) of the process for reclaiming firearms and ammunition on the expiration or termination of the order; and

(vii) in at least 10 point bold type, that the respondent must notify the court in writing of any change of address.

### **Grounds for final extreme risk protective order**

(c)(1) If the respondent appears before the court at a final extreme risk protective order hearing or has been served with an interim or temporary extreme risk protective order or if the court otherwise has personal jurisdiction over the respondent, the judge:

- (i) may proceed with the final extreme risk protective order hearing; and
  - (ii) may enter a final extreme risk protective order to prohibit the respondent from possessing a firearm if the judge finds by clear and convincing evidence that the respondent poses a danger of causing personal injury to the respondent, the petitioner, or another by possessing a firearm.
- (2) In determining whether to enter a final extreme risk protective order under this section, the judge shall consider:
- (i) all relevant evidence presented by the petitioner and respondent; and
  - (ii) the amount of time that has elapsed since any of the events described in the petition.
- (3) The final extreme risk protective order shall:
- (i) order the respondent to surrender to law enforcement authorities any firearm and ammunition in the respondent's possession; and
  - (ii) prohibit the respondent from purchasing or possessing any firearm or ammunition for the duration of the interim extreme risk protective order.
- (4) If the judge finds probable cause to believe that the respondent meets the requirements for emergency evaluation under Title 10, Subtitle 6 of the Health--General Article, the judge may refer the respondent for emergency evaluation.

**Review of court records before granting, denying, or modifying a final extreme risk protective order**

- (d)(1) Before granting, denying, or modifying a final extreme risk protective order under this section, the court may review all relevant open and shielded court records involving the petitioner and the respondent, including records of proceedings under:
- (i) the Criminal Law Article;
  - (ii) Title 3, Subtitle 15 of the Courts Article;
  - (iii) Title 4, Subtitle 5 of the Family Law Article;
  - (iv) Title 10, Subtitle 6 of the Health--General Article; and
  - (v) this article.
- (2) The court's failure to review records under this subsection does not affect the validity of an order issued under this section.

**Final extreme risk protective order served on parties**

- (e)(1) A copy of the final extreme risk protective order shall be served on the petitioner, the respondent, the appropriate law enforcement agency, and any other person the judge determines is appropriate in open court or, if the person is not

present at the final extreme risk protective order hearing, by first-class mail to the person's last known address.

(2)(i) A copy of the final extreme risk protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final extreme risk protective order.

(ii) Service is complete on mailing.

### **Duration of relief**

(f)(1) Except as provided in paragraph (2) of this subsection, all relief granted in a final extreme risk protective order shall be effective for the period stated in the order, not to exceed 1 year.

(2) A subsequent circuit court order pertaining to any of the provisions included in the final extreme risk protective order shall supersede those provisions in the final extreme risk protective order.

**Effective: June 1, 2022**

**MD Code, Public Safety, § 5-701**

**§ 5-701. Definitions**

### **In general**

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

### **Antique firearm**

(b) “Antique firearm” has the meaning stated in § 4-201 of the Criminal Law Article.

### **Federally licensed firearms dealer**

(c) “Federally licensed firearms dealer” means a person licensed by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to deal in firearms.

### **Federally licensed firearms importer**

(d) “Federally licensed firearms importer” means a person licensed by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to import firearms.

### **Federally licensed firearms manufacturer**

(e) “Federally licensed firearms manufacturer” means a person licensed by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives to manufacture firearms.

### **Firearm**

(f) “Firearm” has the meaning stated in § 5-101 of this title.

**Secretary**

(g) “Secretary” means the Secretary of State Police or the Secretary's designee.

**Unfinished frame or receiver**

(h) “Unfinished frame or receiver” means a forged, cast, printed, extruded, or machined body or similar article that has reached a stage in manufacture where it may readily be completed, assembled, or converted to be used as the frame or receiver of a functional firearm.

**Effective: June 1, 2022**

**MD Code, Public Safety, § 5-702**

**§ 5-702. Application of subtitle**

This subtitle does not apply to:

(1) a firearm that:

(i) was manufactured before October 22, 1968; or

(ii) is an antique firearm;

(2) a sale, an offer to sell, a transfer, or a delivery of a firearm or an unfinished frame or receiver to, or possession of a firearm or unfinished frame or receiver by:

(i) a federally licensed firearms dealer;

(ii) a federally licensed firearms manufacturer; or

(iii) a federally licensed firearms importer; or

(3) a transfer or surrender of a firearm or an unfinished frame or receiver to a law enforcement agency.

**Effective: June 1, 2022**

**MD Code, Public Safety, § 5-703**

**§ 5-703. Serial numbers required**

**Sale or transfer**

(a)(1) A person may not purchase, receive, sell, offer to sell, or transfer an unfinished frame or receiver unless it is required by federal law to be, and has been, imprinted with a serial number by a federally licensed firearms manufacturer or federally licensed firearms importer in compliance with all federal laws and regulations applicable to the manufacture and import of firearms.

(2) Except as provided in paragraph (1) of this subsection, a person may not sell, offer to sell, or transfer a firearm unless it is imprinted with a serial number as described under subsection (b) of this section.

### **Possession**

(b)(1) This subsection does not apply to:

(i) possession of a firearm unless a person knew or reasonably should have known that the firearm was not imprinted with a serial number as described under this subsection;

(ii) possession of a firearm that does not comply with the marking requirements described under this subsection by a person who received the firearm through inheritance, and is not otherwise prohibited from possessing the firearm, for a period not exceeding 30 days after inheriting the firearm; or

(iii) possession of an unfinished frame or receiver by a person that made or manufactured the unfinished frame or receiver, without the use of any prefabricated parts, and who is not otherwise prohibited from possessing the unfinished frame or receiver, for a period not exceeding 30 days after the person made or manufactured the unfinished frame or receiver.

(2) On or after March 1, 2023, a person may not possess a firearm unless:

(i) the firearm is required by federal law to be, and has been, imprinted by a federally licensed firearms manufacturer, federally licensed firearms importer, or other federal licensee authorized to provide marking services, with a serial number in compliance with all federal laws and regulations applicable to the manufacture and import of firearms; or

(ii) the firearm:

1. has been imprinted by a federally licensed firearms dealer, federal firearms manufacturer, or other federal licensee authorized to provide marking services, with:

A. the zip code of the current owner or person that made, completed, or initially assembled the firearm;

B. the initials of the current owner or person that made, completed, or initially assembled the firearm; and

C. a number that does not match a number used by the current owner on another firearm or by the person who made, completed, or initially assembled the firearm on any other firearm that the person has made, completed, or initially assembled; and

2. has been registered with the Secretary.

### **Penalties**

(c)(1) A person who violates subsection (a) of this section is guilty of a misdemeanor and subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both.

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

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

### **Imprinting**

(d) A federally licensed firearms dealer or other federal licensee authorized to provide marking services who imprints a firearm under subsection (b)(2)(ii) of this section shall imprint the firearm in compliance with all federal laws and regulations applicable to affixing serial numbers to firearms, including:

(1) minimum size and depth requirements; and

(2) requirements that the numbers not be readily susceptible to being obliterated, altered, or removed.

**Effective: June 1, 2022**

**MD Code, Public Safety, § 5-704**

**§ 5-704. Registration**

### **System of registration**

(a) The Secretary shall maintain a system to register firearms imprinted with serial numbers under § 5-703(b)(2)(ii) of this subtitle.

### **Public inspection**

(b) Registration data provided for registration is not open to public inspection.

### **Appropriations**

(c) For each fiscal year, the Governor shall include in the annual State budget an appropriation of at least \$150,000 to fund registration activities conducted by the Secretary under this section.

**Effective: June 1, 2022**

**MD Code, Public Safety, § 5-705**

**§ 5-705. Regulations**

The Secretary may adopt regulations to carry out the provisions of this subtitle.



Effective: June 1, 2022

**MD Code, Public Safety, § 5-706**

**§ 5-706. Right against self-incrimination**

Nothing in this subtitle may be construed in a manner that abridges or otherwise limits a person's right against self-incrimination under the United States Constitution or the Maryland Declaration of Rights.

## **HEALTH - GEN**

**Effective: October 1, 2021**

### **MD Code, Health - General, § 10-101**

#### **§ 10-101. Definitions**

##### **In general**

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

##### **Administration**

(b) “Administration” means the Behavioral Health Administration.

##### **Admission**

(c)(1) “Admission” means the process by which an individual is accepted as a resident in:

(i) An inpatient facility; or

(ii) A Veterans' Administration hospital in this State that provides care or treatment for individuals who have mental disorders.

(2) “Admission” includes the physical act of the individual entering the facility or Veterans' Administration hospital.

##### **Behavioral health care**

(d) “Behavioral health care” includes prevention, screening, early intervention, treatment, recovery, support, wraparound, and rehabilitation services for individuals with substance-related disorders, addictive disorders, mental disorders, or a combination of these disorders.

##### **Core service agency**

(e) “Core service agency” means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health services.

##### **Director**

(f) “Director” means the Director of the Behavioral Health Administration.

##### **Facility**

(g)(1) Except as otherwise provided in this title, “facility” means any public or private clinic, hospital, or other institution that provides or purports to provide treatment or other services for individuals who have mental disorders.

(2) “Facility” does not include a Veterans' Administration hospital.

### **Local behavioral health authority**

(h) “Local behavioral health authority” means the designated county or multicounty authority that is responsible for planning, managing, and monitoring publicly funded mental health, substance-related disorder, and addictive disorder services.

### **Mental disorder**

(i)(1) “Mental disorder” means a behavioral or emotional illness that results from a psychiatric disorder.

(2) “Mental disorder” includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another.

(3) “Mental disorder” does not include an intellectual disability.

### **State Advisory Council**

(j) “State Advisory Council” means the Behavioral Health Advisory Council.

### **State facility**

(k) “State facility” means a facility that is owned or operated by the Department.

### **Treatment**

(l) “Treatment” means any professional care or attention that is given in a facility, private therapeutic group home for children and adolescents, or Veterans' Administration hospital to improve or to prevent the worsening of a mental disorder.

## **FAMILY**

**Effective: October 1, 2020**

### **MD Code, Family Law, § 4-501**

#### **§ 4-501. Definitions**

##### **In general**

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

##### **Abuse**

(b)(1) “Abuse” means any of the following acts:

- (i) an act that causes serious bodily harm;
- (ii) an act that places a person eligible for relief in fear of imminent serious bodily harm;
- (iii) assault in any degree;
- (iv) rape or sexual offense under § 3-303, § 3-304, § 3-307, or § 3-308 of the Criminal Law Article or attempted rape or sexual offense in any degree;
- (v) false imprisonment;
- (vi) stalking under § 3-802 of the Criminal Law Article; or
- (vii) revenge porn under § 3-809 of the Criminal Law Article.

(2)(i) If the person for whom relief is sought is a child, “abuse” may also include abuse of a child, as defined in Title 5, Subtitle 7 of this article.

(ii) Nothing in this subtitle shall be construed to prohibit reasonable punishment, including reasonable corporal punishment, in light of the age and condition of the child, from being performed by a parent or stepparent of the child.

(3) If the person for whom relief is sought is a vulnerable adult, “abuse” may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this article.

##### **Child care provider**

(c) “Child care provider” means a person that provides supervision and care for a minor child.

##### **Cohabitant**

(d) “Cohabitant” means a person who has had a sexual relationship with the respondent and resided with the respondent in the home for a period of at least 90 days within 1 year before the filing of the petition.

##### **Commissioner**

(e) “Commissioner” means a District Court Commissioner appointed in accordance with Article IV, § 41G of the Maryland Constitution.

### **Court**

(f) “Court” means the District Court or a circuit court in this State.

### **Emergency family maintenance**

(g) “Emergency family maintenance” means a monetary award given to or for a person eligible for relief to whom the respondent has a duty of support under this article based on:

- (1) the financial needs of the person eligible for relief; and
- (2) the resources available to the person eligible for relief and the respondent.

### **Executive Director**

(h) “Executive Director” means the Executive Director of the Governor's Office of Crime Prevention, Youth, and Victim Services.

### **Final protective order**

(i) “Final protective order” means a protective order issued under § 4-506 of this subtitle.

### **Home**

(j) “Home” means the property in this State that:

- (1) is the principal residence of a person eligible for relief; and
- (2) is owned, rented, or leased by the person eligible for relief or respondent or, in a petition alleging child abuse or abuse of a vulnerable adult, an adult living in the home at the time of a proceeding under this subtitle.

### **Interim protective order**

(k) “Interim protective order” means an order that a Commissioner issues under this subtitle pending a hearing by a judge on a petition.

### **Local department**

(l) “Local department” means the local department that has jurisdiction in the county:

- (1) where the home is located; or
- (2) if different, where the abuse is alleged to have taken place.

### **Person eligible for relief**

(m) “Person eligible for relief” includes:

- (1) the current or former spouse of the respondent;
- (2) a cohabitant of the respondent;
- (3) a person related to the respondent by blood, marriage, or adoption;
- (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within 1 year before the filing of the petition;
- (5) a vulnerable adult;
- (6) an individual who has a child in common with the respondent;
- (7) an individual who has had a sexual relationship with the respondent within 1 year before the filing of the petition; and
- (8) an individual who alleges that the respondent committed, within 6 months before the filing of the petition, any of the following acts against the individual:
  - (i) rape or a sexual offense under § 3-303, § 3-304, § 3-307, or § 3-308 of the Criminal Law Article; or
  - (ii) attempted rape or sexual offense in any degree.

### **Pet**

- (n)(1) “Pet” means a domesticated animal.
- (2) “Pet” does not include livestock.

### **Petitioner**

- (o)(1) “Petitioner” means an individual who files a petition.
- (2) “Petitioner” includes:
  - (i) a person eligible for relief; or
  - (ii) the following persons who may seek relief from abuse on behalf of a minor or vulnerable adult:
    1. the State's Attorney for the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
    2. the department of social services that has jurisdiction in the county where the child or vulnerable adult lives, or, if different, where the abuse is alleged to have taken place;
    3. a person related to the child or vulnerable adult by blood, marriage, or adoption; and
    4. an adult who resides in the home.

### **Residence**

(p) “Residence” includes the yard, grounds, outbuildings, and common areas surrounding the residence.

### **Respondent**

(q) “Respondent” means the person alleged in the petition to have committed the abuse.

### **Temporary protective order**

(r) “Temporary protective order” means a protective order issued under § 4-505 of this subtitle.

### **Victim**

(s) “Victim” includes a person eligible for relief.

### **Vulnerable adult**

(t) “Vulnerable adult” has the meaning provided in § 14-101(q) of this article.

**Effective: October 1, 2018**

**MD Code, Family Law, § 4-506**

**§ 4-506. Final protective orders**

### **Hearing**

(a) A respondent under § 4-505 of this subtitle shall have an opportunity to be heard on the question of whether the judge should issue a final protective order.

### **Contents of temporary protective order**

(b)(1)(i) The temporary protective order shall state the date and time of the final protective order hearing.

(ii) Except as provided in § 4-505(c) of this subtitle, or unless continued for good cause, the final protective order hearing shall be held no later than 7 days after the temporary protective order is served on the respondent.

(2) The temporary protective order shall include notice to the respondent:

(i) in at least 10-point bold type, that if the respondent fails to appear at the final protective order hearing, the respondent may be served by first-class mail at the respondent's last known address with the final protective order and all other notices concerning the final protective order;

(ii) specifying all the possible forms of relief under subsection (d) of this section that the final protective order may contain;

(iii) that the final protective order shall be effective for the period stated in the order, not to exceed 1 year or, under the circumstances described in subsection (j)(2) of this section, 2 years, unless the judge extends the term of the order under § 4-507(a)(2) of this subtitle or the court issues a permanent order under subsection (k) of this section; and

(iv) in at least 10-point bold type, that the respondent must notify the court in writing of any change of address.

### **Issuance of final protective order**

(c)(1) If the respondent appears before the court at a protective order hearing or has been served with an interim or temporary protective order, or the court otherwise has personal jurisdiction over the respondent, the judge:

(i) may proceed with the final protective order hearing; and

(ii) if the judge finds by a preponderance of the evidence that the alleged abuse has occurred, or if the respondent consents to the entry of a protective order, the judge may grant a final protective order to protect any person eligible for relief from abuse.

(2) A final protective order may be issued only to a person who has filed a petition under § 4-504 of this subtitle.

(3)(i) Subject to the provisions of subparagraph (ii) of this paragraph, in cases where both parties file a petition under § 4-504 of this subtitle, the judge may issue mutual protective orders if the judge finds by a preponderance of the evidence that mutual abuse has occurred.

(ii) The judge may issue mutual final protective orders only if the judge makes a detailed finding of fact that:

1. both parties acted primarily as aggressors; and
2. neither party acted primarily in self-defense.

### **Scope of final protective order**

(d) The final protective order may include any or all of the following relief:

(1) order the respondent to refrain from abusing or threatening to abuse any person eligible for relief;

(2) order the respondent to refrain from contacting, attempting to contact, or harassing any person eligible for relief;

(3) order the respondent to refrain from entering the residence of any person eligible for relief;

(4) where the person eligible for relief and the respondent are residing together at the time of the abuse, order the respondent to vacate the home immediately and award temporary use and possession of the home to the person eligible for relief



or, in the case of alleged abuse of a child or alleged abuse of a vulnerable adult, award temporary use and possession of the home to an adult living in the home, provided that the court may not grant an order to vacate and award temporary use and possession of the home to a nonspouse person eligible for relief unless the name of the person eligible for relief appears on the lease or deed to the home or the person eligible for relief has shared the home with the respondent for a period of at least 90 days within 1 year before the filing of the petition;

(5) order the respondent to remain away from the place of employment, school, or temporary residence of a person eligible for relief or home of other family members;

(6) order the respondent to remain away from a child care provider of a person eligible for relief while a child of the person is in the care of the child care provider;

(7) award temporary custody of a minor child of the respondent and a person eligible for relief;

(8) establish temporary visitation with a minor child of the respondent and a person eligible for relief on a basis which gives primary consideration to the welfare of the minor child and the safety of any other person eligible for relief. If the court finds that the safety of a person eligible for relief will be jeopardized by unsupervised or unrestricted visitation, the court shall condition or restrict visitation as to time, place, duration, or supervision, or deny visitation entirely, as needed to guard the safety of any person eligible for relief;

(9) award emergency family maintenance as necessary to support any person eligible for relief to whom the respondent has a duty of support under this article, including an immediate and continuing withholding order on all earnings of the respondent in the amount of the ordered emergency family maintenance in accordance with the procedures specified in Title 10, Subtitle 1, Part III of this article;

(10) award temporary use and possession of a vehicle jointly owned by the respondent and a person eligible for relief to the person eligible for relief if necessary for the employment of the person eligible for relief or for the care of a minor child of the respondent or a person eligible for relief;

(11) except when a protective order is issued for a person eligible for relief described in § 4-501(m)(7) of this subtitle, direct the respondent or any or all of the persons eligible for relief to participate in professionally supervised counseling or a domestic violence program;

(12) order the respondent to pay filing fees and costs of a proceeding under this subtitle;

(13) award temporary possession of any pet of the person eligible for relief or the respondent; or

(14) order any other relief that the judge determines is necessary to protect a person eligible for relief from abuse.

### **Review of open and shielded records**

(e)(1) Before granting, denying, or modifying a final protective order under this section, the court shall review all open and shielded court records involving the person eligible for relief and the respondent, including records of proceedings under:

- (i) the Criminal Law Article;
- (ii) Title 3, Subtitle 15 of the Courts Article; and
- (iii) this article.

(2) The court's failure to review records under this subsection does not affect the validity of an order issued under this section.

### **Surrender of firearms by respondent**

(f) The final protective order shall order the respondent to surrender to law enforcement authorities any firearm in the respondent's possession, and to refrain from possession of any firearm, for the duration of the protective order.

### **Return of minor child to custodial parent**

(g) If the judge awards temporary custody of a minor child under subsection (d)(7) of this section, the judge may order a law enforcement officer to use all reasonable and necessary force to return the minor child to the custodial parent after service of the final protective order.

### **Vacation of home by respondent**

(h) In determining whether to order the respondent to vacate the home under § 4-505(a)(2)(iv) of this subtitle or subsection (d)(4) of this section, the judge shall consider the following factors:

- (1) the housing needs of any minor child living in the home;
- (2) the duration of the relationship between the respondent and any person eligible for relief;
- (3) title to the home;
- (4) pendency and type of criminal charges against the respondent;
- (5) the history and severity of abuse in the relationship between the respondent and any person eligible for relief;
- (6) the existence of alternative housing for the respondent and any person eligible for relief; and
- (7) the financial resources of the respondent and the person eligible for relief.

### **Service**

(i)(1) A copy of the final protective order shall be served on the petitioner, the respondent, any affected person eligible for relief, the appropriate law enforcement agency, and any other person the judge determines is appropriate, in open court or, if the person is not present at the final protective order hearing, by first-class mail to the person's last known address.

(2) A copy of the final protective order served on the respondent in accordance with paragraph (1) of this subsection constitutes actual notice to the respondent of the contents of the final protective order. Service is complete upon mailing.

### **Duration of relief granted**

(j)(1) Except as provided in paragraphs (2) and (3) of this subsection, all relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 1 year.

(2) All relief granted in a final protective order shall be effective for the period stated in the order, not to exceed 2 years if:

(i) the court issues a final protective order under this section against a respondent on behalf of a person eligible for relief:

1. for an act of abuse committed within 1 year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expires; or

2. by consent of the respondent within 1 year after the date that a prior final protective order issued against the same respondent on behalf of the same person eligible for relief expires; and

(ii) the prior final protective order was issued for a period of at least 6 months.

(3) A subsequent circuit court order pertaining to any of the provisions included in the final protective order shall supersede those provisions in the final protective order.

### **Final protective orders**

(k)(1) Notwithstanding any other provision of this section, the court shall issue a permanent protective order under this subsection against an individual if:

(i) an interim, temporary, or final protective order has been issued under this subtitle against the individual;

(ii) 1. the individual was convicted and sentenced to serve a term of imprisonment of at least 5 years for the act of abuse that led to the issuance of the interim, temporary, or final protective order and the individual has served at least 12 months of the sentence; or

2. A. during the term of the interim, temporary, or final protective order, the individual committed an act of abuse against the person eligible for relief; and

B. the individual was convicted and sentenced to serve a term of imprisonment of at least 5 years for the act and has served at least 12 months of the sentence; and

(iii) the victim of the act of abuse described in item (ii)1 or 2 of this paragraph, who was the person eligible for relief in the interim, temporary, or final protective order, requests the issuance of a permanent protective order under this subsection.

(2) In a permanent protective order issued under this subsection, the court may grant only the relief that was granted in the original protective order under § 4-504.1(c)(1) or (2) or § 4-505(a)(2)(i) or (ii) of this subtitle or subsection (d)(1) or (2) of this section.

(3) Unless terminated at the request of the victim, a protective order issued under this subsection shall be permanent.

**Effective: October 1, 2010**

**MD Code, Family Law, § 4-506.1**

**§ 4-506.1. Surrender of firearm**

#### **Duties of law enforcement officer**

(a) If a respondent surrenders a firearm under § 4-505 or § 4-506 of this subtitle, a law enforcement officer shall:

(1) provide to the respondent information on the process for retaking possession of the firearm; and

(2) transport and store the firearm in a protective case, if one is available, and in a manner intended to prevent damage to the firearm during the time the protective order is in effect.

#### **Expiration of temporary protective order**

(b)(1) The respondent may retake possession of the firearm at the expiration of a temporary protective order unless:

(i) the respondent is ordered to surrender the firearm in a protective order issued under § 4-506 of this subtitle; or

(ii) the respondent is not otherwise legally entitled to own or possess the firearm.

(2) The respondent may retake possession of the firearm at the expiration of a final protective order unless:

(i) the protective order is extended under § 4-507(a)(2) of this subtitle; or

(ii) the respondent is not otherwise legally entitled to own or possess the firearm.

#### **Transport of firearm**

(c) Notwithstanding any other law, a respondent may transport a firearm if the respondent is carrying a protective order requiring the surrender of the firearm and:

- (1) the firearm is unloaded;
- (2) the respondent has notified the law enforcement unit, barracks, or station that the firearm is being transported in accordance with the protective order; and
- (3) the respondent transports the firearm directly to the law enforcement unit, barracks, or station.

**Effective: October 1, 2015**

**MD Code, Family Law, § 4-508.1**

**§ 4-508.1. Protective orders issued by foreign courts**

**“Order for protection” defined**

(a)(1) In this section, “order for protection” means a temporary or final order or injunction that:

- (i) is issued for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person;
- (ii) is issued by a civil court in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection or by a criminal court; and
- (iii) is obtained by filing an independent action or as a pendente lite order in another proceeding.

(2) “Order for protection” does not include a support or child custody order.

**Enforcement of protective orders issued by foreign courts**

(b) An order for protection issued by a court of another state or a Native American tribe shall be accorded full faith and credit by a court of this State and shall be enforced:

(1) in the case of an ex parte order for protection, only to the extent that the order affords relief that is permitted under § 4-505 of this subtitle; and

(2) in the case of an order for protection, other than an ex parte order for protection, only to the extent that the order affords relief that is permitted under § 4-506(d) of this subtitle.

**Violator of order shall be arrested**

(c) A law enforcement officer shall arrest with or without a warrant and take into custody a person who the officer has probable cause to believe is in violation of an

order for protection that was issued by a court of another state or a Native American tribe and is in effect at the time of the violation if the person seeking the assistance of the law enforcement officer:

- (1) has filed with the District Court or circuit court for the jurisdiction in which the person seeks assistance a copy of the order; or
- (2) displays or presents to the law enforcement officer a copy of the order that appears valid on its face.

### **Immunity from liability**

(d) A law enforcement officer acting in accordance with this section shall be immune from civil liability if the law enforcement officer acts in good faith and in a reasonable manner.

### **Legislative intent**

(e) It is the intent of the General Assembly that an order for protection issued by a court of this State shall be accorded full faith and credit by a court of another state to the extent required by federal law.

## **MD Code, Family Law, § 4-511**

### **§ 4-511. Removal of firearm**

#### **Removal of firearm from scene of domestic violence**

(a) When responding to the scene of an alleged act of domestic violence, as described in this subtitle, a law enforcement officer may remove a firearm from the scene if:

- (1) the law enforcement officer has probable cause to believe that an act of domestic violence has occurred; and
- (2) the law enforcement officer has observed the firearm on the scene during the response.

#### **Duties of law enforcement officer**

(b) If a firearm is removed from the scene under subsection (a) of this section, the law enforcement officer shall:

- (1) provide to the owner of the firearm information on the process for retaking possession of the firearm; and
- (2) provide for the safe storage of the firearm during the pendency of any proceeding related to the alleged act of domestic violence.

#### **Repossession of firearm**

(c) At the conclusion of a proceeding on the alleged act of domestic violence, the owner of the firearm may retake possession of the firearm unless ordered to surrender the firearm under § 4-506 of this subtitle.

## **CRIMINAL PROCEDURE**

### **MD Code, Criminal Procedure, § 3-110**

#### **§ 3-110. Plea of not criminally responsible**

##### **Written plea of not criminally responsible**

(a)(1) If a defendant intends to rely on a plea of not criminally responsible, the defendant or defense counsel shall file a written plea alleging, in substance, that when the alleged crime was committed, the defendant was not criminally responsible by reason of insanity under the test for criminal responsibility in § 3-109 of this title.

(2) A written plea of not criminally responsible by reason of insanity shall be filed at the time provided for initial pleading, unless, for good cause shown, the court allows the plea to be filed later.

##### **Burden of proof**

(b) The defendant has the burden to establish, by a preponderance of the evidence, the defense of not criminally responsible.

##### **Separate determination by trier of fact**

(c) If the trier of fact finds that the State has proved beyond a reasonable doubt that the defendant committed the criminal act charged, then, if the defendant has pleaded not criminally responsible, the trier of fact separately shall find whether the defendant has established, by a preponderance of the evidence, that the defendant was at the time criminally responsible or not criminally responsible by reason of insanity under the test for criminal responsibility in § 3-109 of this title.

##### **Written plea required for court to enter verdict**

(d) A court may not enter a verdict of not criminally responsible unless the defendant or defense counsel has filed a written plea under subsection (a) of this section.

**Effective: October 1, 2018**

### **MD Code, Criminal Procedure, § 6-234**

#### **§ 6-234. Prohibition of possession of firearms, rifles, or shotguns when convicted of disqualifying crime**

##### **Definitions**

(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.

(8) “Regulated firearm” has the meaning stated in § 5-101 of the Public Safety Article.

(9) “Rifle” has the meaning stated in § 4-201 of the Criminal Law Article.

(10) “Shotgun” has the meaning stated in § 4-201 of the Criminal Law Article.

**When charged with disqualifying crime, notice of prohibition of possession of firearms if convicted**

(b)(1) When a defendant has been charged with a disqualifying 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.

**Upon conviction of a disqualifying crime, notice of prohibition of possession of firearms, order to transfer**

(c) 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, both verbally and in a written notice to be signed by the defendant, that the defendant is:

(1) prohibited from possessing a regulated firearm under § 5-133 of the Public Safety Article;

(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.

### **Order to transfer all firearms**

(d) The court shall order the defendant to transfer all regulated firearms, rifles, and shotguns owned by the defendant or in the defendant's possession in accordance with this section.

### **Time of transfer; transfer to local law enforcement agency or federally licensed firearms dealer; contents of written proof of transfer**

(e)(1) A transfer of a regulated firearm, rifle, or shotgun under this section shall be made within 2 business days after the conviction to a State or local law enforcement 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 agency or to a federally licensed firearms dealer.

(3) A law enforcement 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.

### **Issuance of search warrant for removal of firearms**

(f) On application by the State's Attorney or a law enforcement official 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 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.

### **Rules and procedures for storage and disposal of firearms**

(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.

## **ESTATES AND TRUSTS**

**Effective: October 1, 2019**

**MD Code, Estates and Trusts, § 13-201**

### **§ 13-201. Grounds for appointment of guardian**

#### **Guardian of property of minor or disabled person**

(a) On petition, and after any notice or hearing prescribed by law or the Maryland Rules, the court may appoint a guardian of the property of a minor or a disabled person.

#### **Guardians appointed for minors**

(b) A guardian shall be appointed if the court determines that:

- (1) A minor owns or is entitled to property that requires management or protection; or
- (2) Funds are needed for the minor's support, care, welfare, and education and protection is necessary or desirable to obtain or provide funds.

#### **Guardians appointed for disabled persons**

(c) A guardian shall be appointed if the court determines that:

- (1) The person is unable to manage effectively the person's property and affairs because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, detention by a foreign power, or disappearance; and
- (2) The person has or may be entitled to property or benefits which require proper management.

**Effective: October 1, 2020**

**MD Code, Estates and Trusts, § 13-705**

### **§ 13-705. Appointment process for disabled persons**

#### **Petition, notice, and hearing**

(a) On petition and after any notice or hearing prescribed by law or the Maryland Rules, a court may appoint a guardian of the person of a disabled person.

#### **Cause for appointment**

(b) A guardian of the person shall be appointed if the court determines from clear and convincing evidence that:

(1) A person lacks sufficient understanding or capacity to make or communicate responsible personal decisions, including provisions for health care, food, clothing, or shelter, because of any mental disability, disease, habitual drunkenness, or addiction to drugs; and

(2) No less restrictive form of intervention is available that is consistent with the person's welfare and safety.

### **Procedures and venue**

(c)(1) Procedures and venue in these cases shall be as described by Title 10, Chapters 100 and 200 of the Maryland Rules.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a petition for guardianship of a disabled person shall include signed and verified certificates of competency from the following health care professionals who have examined or evaluated the disabled person:

(i) Two licensed physicians; or

(ii) 1. One licensed physician; and

2. A. One licensed psychologist;

B. One licensed certified social worker-clinical; or

C. One nurse practitioner.

(3) An examination or evaluation by at least one of the health care professionals under paragraph (2) of this subsection shall occur within 21 days before filing a petition for guardianship of a disabled person.

### **Council for disabled person**

(d)(1)(i) Subject to paragraph (2) of this subsection, unless the alleged disabled person has counsel of the person's own choice, the court shall appoint an attorney to represent the person in the proceeding and may require the deposit of an appropriate sum into the court registry or the appointed attorney's escrow account within 30 days after the order of appointment has been entered, subject to further order of the court.

(ii) If the person is indigent, the State shall pay a reasonable attorney's fee.

(iii) The court may not require the deposit of an appropriate sum into the court registry or the appointed attorney's escrow account under subparagraph (i) of this paragraph if payment for the services of the court-appointed attorney for the alleged disabled person is the responsibility of:

1. A government agency paying benefits to the disabled person;

2. A local department of social services; or

3. An agency eligible to serve as the guardian of the disabled person under § 13-707 of this subtitle.

(2) In any action in which payment for the services of a court-appointed attorney for the alleged disabled person is the responsibility of the local department of social services, unless the court finds that it would not be in the best interests of the alleged disabled person, the court shall:

(i) Appoint an attorney who has contracted with the Department of Human Services to provide those services, in accordance with the terms of the contract; and

(ii) In an action in which an attorney has previously been appointed, strike the appearance of the attorney previously appointed and appoint the attorney who is currently under contract with the Department of Human Services, in accordance with the terms of the contract.

### **Disabled person present at hearing**

(e)(1)(i) The person alleged to be disabled is entitled to be present at the hearing unless the person has knowingly and voluntarily waived the right to be present or cannot be present because of physical or mental incapacity.

(ii) Waiver or incapacity may not be presumed from nonappearance but shall be determined on the basis of factual information supplied to the court by counsel or a representative appointed by the court.

(2) The person alleged to be disabled is also entitled to present evidence and to cross-examine witnesses.

(3) The issue may be determined at a closed hearing without a jury if the person alleged to be disabled or the person's counsel so requests and all hearings herein shall be confidential and sealed unless otherwise ordered by a court of competent jurisdiction for good cause shown.

### **Expedited basis for hearing and ruling on petition**

(f) The court shall hear and rule on a petition seeking appointment of a guardian of the person of a disabled person in connection with medical treatment on an expedited basis.

## **STATE GOVERNMENT**

### **MD Code, State Government, § 2-1702**

#### **§ 2-1702. Interference with legislative process**

##### **Disruption and interference prohibited**

(a) A person may not willfully disrupt, interfere with, attempt to disrupt, or attempt to interfere with a session, meeting, or proceeding of the General Assembly, the Senate, or the House or any of their committees, by:

- (1) making, alone or with another person, a noise that tends to be disruptive;
- (2) using abusive or obscene language;
- (3) making an obscene gesture;
- (4) engaging in violent, tumultuous, or threatening behavior;
- (5) refusing to comply with the lawful order of the police to disperse; or
- (6) doing any other disruptive or interfering act.

##### **Picketing restricted**

(b) A person may not picket willfully in a building where:

- (1) the Senate or the House has a chamber;
- (2) a member of the General Assembly has an official office; or
- (3) a committee of the General Assembly, the Senate, or the House has an office.

##### **Interference with members and staff prohibited**

(c) A person may not prevent or attempt to prevent, willfully and with force, the performance of a function, power, or duty by a member, officer, or employee of the General Assembly, the Senate, or the House or any of their committees.

##### **Interference with property prohibited**

(d) A person may not:

- (1) willfully and without legal authority, obtain, withhold, destroy, deface, or alter an official document or record of the General Assembly, the Senate, or the House or any of their committees; or
- (2) without legal authority, possess, withhold, destroy, or deface real or personal property that the General Assembly, the Senate, or the House or any of their committees owns or uses.

##### **Firearms and other devices restricted**

(e)(1) This subsection does not apply to:

(i) a law enforcement officer of any state or of the federal government who is carrying out duties of the office; or

(ii) a person whom the officer summons to help in making an arrest or in preserving the peace.

(2) A person may not willfully bring an assault weapon or other firearm or destructive device, as defined in § 4-501 of the Criminal Law Article, into or have an assault weapon or other firearm or destructive device in a building where:

(i) the Senate or the House has a chamber;

(ii) a member, officer, or employee of the General Assembly has an official office; or

(iii) a committee of the General Assembly, the Senate, or the House has an office.

### **Penalties**

(f) A person who violates any provision of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.



## **TRANSPORTATION**

### **MD Code, Transportation, § 5-1008**

#### **§ 5-1008. Boarding aircraft with firearms or explosives prohibited**

##### **In general**

(a) Except as specifically authorized by State or federal law, a person may not be aboard, board, or attempt to board any aircraft engaged in certificated air commerce services with any firearm or explosive on or about his person, whether openly or concealed.

##### **Fines and penalties**

(b) Any person who violates any provision of this section is guilty of a felony and on conviction is subject to imprisonment not exceeding 10 years.

## **BUSINESS REGULATION**

**Effective: July 1, 2016**

### **MD Code, Business Regulation, § 15-203**

#### **§ 15-203. Refusal of lodging or services; removal**

(a) An innkeeper may refuse to provide lodging or services to or may remove from a lodging establishment an individual who:

(1) refuses to pay or is unable to pay for lodging or services;

(2) while on the premises of the lodging establishment is under the influence of alcohol, drugs, or other intoxicating substance so as to create a public nuisance;

(3) while on the premises is disorderly so as to create a public nuisance;

(4) destroys, damages, or defaces property of the lodging establishment or its guests, or threatens to do so;

(5) the innkeeper reasonably believes is using the lodging establishment for the unlawful possession or use of a controlled dangerous substance in violation of Title 5 of the Criminal Law Article or for the consumption of alcohol by an individual under the age of 21 years in violation of § 6-304, § 6-307, § 6-308, or § 6-309 of the Alcoholic Beverages Article;

(6) the innkeeper reasonably believes possesses property that may be dangerous to other individuals, such as firearms or explosives; or

(7) refuses to abide by any conspicuously posted rule or policy of the lodging establishment.

(b)(1) If an innkeeper seeks to remove an individual from a lodging establishment as provided under this section, the innkeeper shall:

(i) notify the individual, either orally or in writing, that the lodging establishment refuses to provide further lodging or services to the individual and that the individual should immediately leave the lodging establishment; and

(ii) if the individual has paid for lodging or services in advance, refund any unused portion of the advance payment, but the lodging establishment may withhold payment for a full day's lodging if the individual was lodged for a portion of a day.

(2) If an individual attempts to remain in a lodging establishment after having been requested to leave under the provisions of this section, an innkeeper may:

(i) if the individual is a guest, lock the door of the individual's room;

(ii) remove the individual's baggage and other personal property; and

(iii) using no more force than necessary, eject the individual from the lodging establishment.



## **NATURAL RESOURCES**

**Effective: October 1, 2016**

### **MD Code, Natural Resources, § 4-1013**

#### **§ 4-1013. Dredging requirements**

##### **In general**

(a)(1) This subsection applies only to a dredge boat that:

- (i) Is a functional sailing vessel used to catch oysters or clams by dredge;
- (ii) Is built in the style of a traditional Chesapeake Bay bugeye, schooner, or skipjack;
- (iii) Uses a sailing rig composed of at least one mast and one boom capable of holding sails and configured for sailing;
- (iv) Includes a set of davits capable of removing an auxiliary yawl boat from the water;
- (v) Does not have a screw, a propeller, an engine, a turbine, or any other device for self-propulsion used in catching oysters by dredge; and
- (vi) Meets all United States Coast Guard requirements.

(2) Any person who owns or is in charge of operating any dredge boat shall have a license to catch oysters by dredge boat.

(3) The owner, captain, master, or any crew member of any dredge boat capable of self-propulsion by any motor, turbine, or other engine attached to the dredge boat, may not have on board the dredge boat, or in tow, or permit on board or in tow, any scoop, handscrape, dredge, or similar instrument used in dredging, or any winch, spool, winder, or other tackle used in dredging, unless the dredge boat is permitted by the Department to dredge on leased land, or is engaged in taking seed oysters under the surveillance and with the permission of the Department.

(4) Notwithstanding any other provisions of this subtitle, the Department may designate by regulation a period of time not to exceed 3 days in any one week during which dredge boats licensed under this subtitle may be propelled by means of the auxiliary yawl boat carried on the dredge boat in the waters of the Chesapeake Bay.

##### **Maximum daily harvest limit**

(b) The Department may prescribe the maximum daily harvest limit on any day.

##### **Consent of lessee or tenant of leased land**

(c) The owner, captain, master, or any crew member of any boat may not catch oysters by scoop, handscrape, or dredge, or permit oysters to be caught by scoop, handscrape, or dredge, on any land in the State leased for cultivating oysters unless the boat is permitted by the Department for dredging on leased land, and the owner, captain, or master of the boat has on board the written consent of the lessee or tenant of the leased land from which any oysters are caught.

### **Submerged lands reserved for tongers**

(d)(1) All submerged land of the State not leased for cultivation of oysters nor designated as dredging territory by this subtitle shall be reserved for tongers exclusively.

(2) The owner, captain, master or any crew member of any boat may not catch oysters by scoop, handscrape, or dredge, or attempt or conspire to catch oysters by scoop, handscrape, or dredge, from any submerged land of the State reserved for tongers exclusively or closed by any regulation or order of the Department.

(3) The taking of oysters by scoop, dredge or handscrape by hand may be authorized by the Secretary upon the recommendations of the appropriate county tongers committee, in areas reserved for tonging when areas which are designated for tonging oysters are closed because of icing conditions at least 7 consecutive days.

(4) Handscraping may be authorized on a day for working day basis according to the number of days when tonging is not possible because of ice cover, but not to exceed 14 working days.

(5) The Secretary may specify areas to be opened and restrictions on gear.

(6) There shall be a limit of 10 bushels per person and no more than 30 bushels per boat.

(7) A person may not handscrape for oysters after 12 noon.

(8) This subsection does not apply to catching seed oysters under the surveillance and with the permission of the Department.

### **Tooth bar size restrictions**

(e) A person may not catch oysters in the waters of the State or possess any scoop, dredge, handscrape, or similar instrument having a tooth bar more than 42 inches in length measuring from the outside teeth on dredges used in dredging on rock bottoms or 44 inches in length measuring from the outside teeth on dredges used in dredging on mud bottoms, or of a weight exceeding 200 pounds.

### **Firearm restrictions**

(f) Subject to the laws relating to firearms, the captain, master or any person on board or having control of any dredge boat, may not have or permit to be kept on the dredge boat more than two shotguns not larger than a number ten gauge and using shot not larger than number one.

## **REGULATION**

### **04.05.01.03**

#### **Prohibited Conduct.**

A. An individual shall be subject to arrest if the individual:

- (1) Damages or defaces the property;
- (2) Creates loud, unusual noise, including profanity;
- (3) Disturbs employees performing their duties;
- (4) Prevents or disturbs the general public from obtaining services provided on the property; or
- (5) Obstructs:
  - (a) Entrances,
  - (b) Walks,
  - (c) Corridors,
  - (d) Elevators,
  - (e) Offices,
  - (f) Stairways, or
  - (g) Parking lots.

B. Except for official purposes and by authorized personnel, an individual on the property may not carry open or concealed firearms, explosives, incendiary devices, or dangerous or deadly weapons.

C. Photographs, video, video tape, movie film, or audio recordings for commercial purposes may only be made on the property with the approval of the occupying agency head.

D. The operation of gambling devices, conducting a pool or lottery, the selling or purchasing of "numbers" or lottery tickets and gambling or betting in any form on the property is prohibited, except for operations by the Maryland State Lottery Agency.

E. Dogs and other animals may not be brought upon the property for other than official purposes, except seeing-eye dogs and animals used to guide or assist handicapped persons.

F. Executive Order 01.01.1987.13 prohibits smoking and the carrying of lit tobacco products or substitutes in public access areas of the property. Smoking is allowed only in areas so designated with posted signs.

G. Physical damage of the property is prohibited and includes:

- (1) Defacing or marking of the property;
- (2) Throwing articles of any kind at or from the property;
- (3) Climbing upon any part of the property;
- (4) Tampering with landscape and planting; or
- (5) Willful damage, destruction, or removal of property.

#### **08.01.07.14**

### **Weapons.**

A. Definition.

(1) In this regulation, the following term has the meaning indicated.

(2) Term Defined. "Weapon" means:

(a) A device capable of propelling a projectile at high velocity by mechanical means, by explosion, or by expanding gas, including but not limited to a firearm, crossbow, or long bow;

(b) A dirk knife, bowie knife, switchblade (except a penknife without a switchblade), sand club, metal knuckles, razor, or nunchaku; or

(c) A device capable of:

(i) Inflicting death or bodily harm to an individual;

(ii) Maiming or killing wildlife; or

(iii) Destroying property.

B. Except as provided in Regulation .04 of this chapter and §§C and D of this regulation, possession or use of weapons or firearms by an individual other than a law enforcement officer is prohibited in Chesapeake Forest Lands.

C. Target shooting is permitted only at designated shooting ranges. The regulations governing the use of these ranges shall be posted and strictly enforced.

D. Except when legally hunting or legally target shooting, an individual may not discharge a firearm on land or waters owned or controlled by the Service.

E. Firearms shall be unloaded, and arrows kept in a quiver or case, when in a Chesapeake Forest camping area in accordance with Regulation .07 of this chapter.

#### **08.07.01.04**

### **Weapons.**

A. Definition. In this regulation, "weapon" means:

- (1) A device capable of propelling a projectile at high velocity by mechanical means, by explosion, or by expanding gas, including but not limited to a firearm, crossbow, or longbow;
- (2) A dirk knife, bowie knife, switchblade (except penknives without switchblades), sand club, metal knuckles, razor, or nunchaku; or
- (3) A device capable of:
  - (a) Inflicting death or bodily harm to an individual,
  - (b) Maiming or destroying wildlife, or
  - (c) Destroying property.

B. Except as provided in § C and D of this regulation, possession or use of weapons or firearms by an individual other than a law enforcement officer is prohibited in all State forests.

C. Target shooting is permitted only at designated shooting ranges. The regulations governing the use of these ranges shall be posted and strictly observed.

D. Except when legally hunting or legally target shooting, an individual may not discharge a firearm on land or waters owned or controlled by the Service.

E. Firearms shall be unloaded, and arrows kept in a quiver or case, when in a State forest campsite.

#### **08.07.06.04**

### **Weapons.**

A. Definition. In this regulation, "weapon" means:

- (1) A device capable of propelling a projectile at high velocity by mechanical means, by explosion, or by expanding gas, including, but not limited to a firearm, crossbow, or longbow;
- (2) A dirk knife, bowie knife, switchblade, sand club, metal knuckles, razor, or nunchaku; and
- (3) A device capable of:



- (a) Inflicting death or bodily harm to an individual;
- (b) Maiming or destroying wildlife; or
- (c) Destroying property.

B. Except as provided in Regulation .03 of this chapter and in C and D of this regulation, an individual other than a law enforcement officer may not possess a weapon in a State park. The Service may approve an exception for an archery range, firearms range, or an exhibition.

C. During hunting season, a licensed hunter may carry firearms and bows and arrows across State parks in order to get to hunting areas or to other State or private property which is open to hunting. The firearms shall be carried unloaded and cased, or carried unloaded with breech open or broken. Arrows shall be carried in a quiver or case.

D. Target shooting is permitted at designated shooting ranges. The regulations governing the use of these ranges shall be posted and strictly observed.

#### **11.04.07.12**

### **Firearms and Fireworks.**

The display or discharge of firearms, pellet guns, B-B guns, and fireworks of any kind is prohibited.

#### **12.02.03.10**

### **Facility Management.**

A. General Administration.

(1) Any private agency operating a facility shall have:

(a) A constitution or articles of incorporation which meet all of the legal requirements of the State;

(b) Documentation of its tax status with the Internal Revenue Service; and

(c) By-laws, approved by the local governing board and filed with the appropriate local, State, and/or federal bodies.

(2) The facility shall have a program design approved by the Commissioner, which describes:

(a) What is to be done to whom, by whom, why, at what cost; and

(b) How an outside observer can judge whether or not the program is achieving what it is designed to achieve.

(3) The facility shall have a current organizational chart which accurately reflects the structure of authority, responsibility, and accountability within the facility.

- (4) In order to facilitate the administration and operation of the facility, written rules and regulations shall be promulgated, published and made available to all staff members.
- (5) The rules and regulations shall be assembled as a procedures manual.
- (6) The procedures manual shall be bound in a loose leaf binder in order to facilitate changes, additions, and deletions.
- (7) A copy of the procedures manual shall always be in the possession of that individual who at any given time is responsible for the operations of the facility. Other copies shall be available for use of other staff.
- (8) The procedures manual shall contain sample copies of all forms and reports and an explanation for initiating, completing and distributing forms and reports required.
- (9) All counseling/security staff shall be required to be familiar with the community adult rehabilitation center standards, the facility program design and procedures manual. The facility shall maintain, on file, a statement signed by each staff member which acknowledges this familiarity.
- (10) All written policies and procedures shall include purpose, other policies and procedures affected, explanation, action required, cancellation date, and distribution.
- (11) At all times, a staff member, physically present in the facility, shall be designated to be "in charge". The facility's policies and procedures shall identify the responsibilities of this person.
- (12) The procedures manual shall include emergency procedures which outline specific responsibilities in case of emergency including: riot, fire, assault, rebellion, or any other emergency.
- (13) The emergency procedures shall be prepared in cooperation with pertinent state and local agencies including fire, police and civil defense, and shall conform to all appropriate statutes.
- (14) All agencies involved in the preparation of emergency procedures or having responsibilities for carrying out the procedures shall be distributed a current copy for reference.
- (15) The facility shall have a written emergency evacuation plan which shall be disseminated to staff and inmates and shall be posted in a conspicuous place.
- (16) The facility director, at least annually, shall request an inspection of the facility by the local fire inspector, health inspector and building inspector. Reports of all inspections conducted shall be maintained for a period of at least 3 years.

#### B. Food Service.

- (1) The facility shall insure that the food service provided meets or exceeds any nutritional standards as recommended by the dietary allowance of the Food and

Nutrition Board of the National Research Council and the Maryland Department of Health and local health department.

(2) All food service shall be according to COMAR 10.15.03.

(3) Three wholesome meals a day of sufficient quantity and quality shall be served at the customary times of breakfast, lunch and supper.

(4) The facility shall provide advance monthly planned menus to assist in budget planning, food quality control, and to inform the inmates what will be served at each meal. This menu shall be posted in a conspicuous location that is accessible to inmates. Copies of all menus shall be retained for inspection purposes.

(5) The facility food service plan shall be periodically reviewed and approved by a certified dietitian or local health authorities.

(6) The facility shall provide properly ventilated and adequately furnished dining area or areas.

(7) Special diets as prescribed by a physician or a certified dietitian, shall be available for those inmates under medical treatment or in need of these diets for other approved reasons.

(8) At least one member of the facility staff shall supervise the kitchen in the preparation and serving of food.

(9) Facility staff, corrections, sheriff's department, or any other city, county, or State personnel may not have their salary, commissions, or any other payments tied to savings in facility operations.

#### C. Medical.

(1) Inmate medical and dental records are confidential and shall be handled only by properly authorized personnel.

(2) An inmate shall be provided medical and dental care for conditions which, in a professional opinion, are of immediate concern and must be treated. This care shall be of a quality commensurate with good medical practice.

(3) Standard first aid supplies as required by O.S.H.A. shall be available on the premises at all times.

(4) The facility shall maintain an inventory control list of first aid equipment and supplies to ensure the equipment and supplies are sufficient at all times.

(5) At least one staff member per shift who has completed the American Red Cross Advanced First Aid and Emergency Care and Coronary Pulmonary Resuscitation courses or their equivalent shall be present in the facility at all times.

(6) The facility shall have established procedures whereby inmates can report illnesses and request treatment in writing. These shall be outlined in the inmate rules and regulations.

(7) The facility shall have written medical emergency procedures that insure appropriate response to medical emergencies, and the staff shall be familiar with these procedures.

(8) Narcotics and other medication shall be properly stored and inventoried in accordance with all applicable federal, State, and local regulations.

(9) All prescribed medication for inmates shall be centrally stored in a secure storage area controlled by the staff. Inmates shall normally be given their prescribed daily dosage one day at a time.

(10) A report of all physician visits, inmate treatment, and complaints or requests for treatment shall be incorporated in the inmate's file.

(11) As soon as possible after occurrence of any serious illness or injury to an inmate, every possible effort shall be made to report the occurrence to the inmate's next of kin or a person designated by the inmate. If at all possible, this should be accomplished within 4 hours of the incident. All these efforts shall be documented in the facility log.

(12) As soon as possible, and in all cases within 2 hours after receipt, inmates shall be notified when information is received of a serious matter concerning the inmate's family.

(13) At least one litter stretcher and storage for it shall be provided for the transportation of the critically ill or injured.

(14) The facility shall provide for completion of necessary laboratory tests as ordered by a physician.

(15) The facility shall have a written policy regarding the possession and use of controlled substances, prescribed medications, and over-the-counter drugs.

(16) An inmate who has been determined to be a drug addict shall be placed under appropriate treatment.

(17) The determination of addiction and treatment of an addicted inmate shall conform to the guidelines and regulations promulgated by the federal government and the Maryland State Drug Abuse Administration.

#### D. Sanitation.

(1) A daily routine of work necessary to keep the facility clean shall be established and followed.

(2) A member of the facility staff shall make daily sanitation and safety inspections.

(3) The director shall conduct periodic, unannounced sanitation inspections of the facility.

(4) The facility shall furnish laundry services or provide facilities for washing personal clothing, as well as bedding, and other washable items.

(5) Blankets, pillows and mattresses shall be cleaned before issue and when necessary during use.

E. Personnel.

(1) The facility shall observe the personnel policies of the State, if operated by the State, or of the county, if operated by a county.

(2) Any private agency operating a facility or any county which may not have written personnel policies adopted by the governing body shall have policies including at a minimum:

- (a) Organization chart;
- (b) Employment practices and procedures;
- (c) Promotion;
- (d) Job qualifications;
- (e) Grievance procedures;
- (f) Employee evaluation;
- (g) Personnel records;
- (h) Benefits;
- (i) Holidays;
- (j) Vacations;
- (k) Hours of work;
- (l) Salaries (or the base for determining salaries);
- (m) Suspension;
- (n) Termination; and
- (o) Resignation.

(3) The facility or agency shall have documentation to show that job descriptions and job qualifications exist for all positions in the facility.

(4) The personnel record of the employees shall be confidential and shall be maintained in a locked file which shall be confidential.

(5) The facility or agency may not have a policy which excludes the employing of ex-offenders.

(6) The facility or agency shall provide initial orientation for all new employees upon employment.

(7) The facility or agency shall have a written program of in- service training for all employees, using their own resources and other resources in the community.

#### F. Inmate Rules and Regulations.

(1) The facility shall have written inmate rules and regulations.

(2) Inmate rules and regulations shall be written and organized in a simple and understandable form.

(3) At admission, each inmate shall be given a copy of the rules and regulations to read and retain.

(4) If an inmate cannot read, the rules and regulations shall be read to the inmate.

(5) After reading or being read the rules and regulations, inmates shall be required to sign an appropriate form acknowledging that they have read (or have been read) the rules and understand them.

(6) All facility staff shall be familiar with the inmate rules and regulations.

(7) Before their publication, the inmate rules and regulations shall be approved by the attorney general, county attorney, or city solicitor, as the case may be.

(8) The inmate rules and regulations shall specify any actions that can lead to administrative (non-punitive) removal from the facility. Inmate regulations shall provide that transfers of inmates to Division of Correction institutions of greater security shall conform with applicable Division of Correction regulations.

(9) The inmate rules and regulations shall outline inmate grievance procedures.

(10) There shall be a written procedure for inmates to make complaints or grievances which shall outline required staff action for investigating and resolving the complaints or grievances.

(11) A written disciplinary report of all violations of inmate rules and regulations shall be made and shall include:

(a) The name of the inmate and the alleged offense;

(b) A description of the complaint;

(c) Names of any witnesses; and

(d) The signature of the staff member making the report.

(12) The inmate rules and regulations shall include the established adjustment procedure for imposing punishment for violations of inmate rules. All disciplinary action shall be in accordance with these procedures.

(13) The adjustment procedure shall include:

(a) Written notice to inmates of the charges against them; the written notice of the charges shall include a statement of the allegations;

- (b) An opportunity to prepare a defense to the charges, with the possibility of assistance by another inmate or staff member;
  - (c) A summary hearing before an impartial senior-level staff member (not the director) for those minor violations delineated by the facility's regulations, and a hearing before an adjustment team for serious violations;
  - (d) An opportunity for the inmates to be represented by another inmate or staff member at the hearing to present evidence and witnesses in their own behalf and confront and cross-examine witnesses against them if the adjustment team determines it is practical or relevant to the inmate's case; inmates shall be allowed at least 24 hours from time of notice of infraction to the disciplinary hearing to prepare a defense and to confer with potential witnesses;
  - (e) A decision based upon the evidence produced at the hearing in support or denial of the charge;
  - (f) A permanent record of the proceedings; and
  - (g) An opportunity for appeal to the facility director or designee.
- (14) The adjustment team shall be comprised of at least two impartial staff members, neither of whom was a party to the violation;
- (15) One inmate resident of the facility may be assigned as a member of the adjustment team. In these cases the inmate may be permitted a vote in the determination of guilt or innocence but may not participate in the process of affixing a penalty or disciplinary action.
- (16) Violations of the criminal code of Maryland shall be referred to proper authorities for appropriate criminal proceedings.
- (17) The following are penalties or disciplinary actions, only one of which may be imposed by summary hearings for each minor violation of inmate rules and regulations:
- (a) Counseling or reprimand;
  - (b) Assignment to no more than 20 hours of extra duty;
  - (c) Loss of participation in facility sponsored recreation, athletic, or cultural activities for a maximum of 15 days;
  - (d) Required participation in a program designed to correct the cause of the disciplinary problem;
  - (e) Loss or reduction of leave privileges for a maximum of 30 days;
  - (f) Restriction to the facility except for authorized work, training, education, or other specifically excepted purpose for a maximum of 15 days.

(18) The following are penalties or disciplinary actions, only one of which may be imposed by an adjustment team for each serious violation of inmate rules and regulations:

(a) Any penalty or disciplinary action provided for minor violations;

(b) Assignment to no more than 60 hours of extra duty;

(c) Loss or reduction of leave privileges for a maximum of 60 days;

(d) Restriction to the facility except for specifically excepted purposes for a maximum of 45 days;

(e) Loss of up to 30 days of good conduct time or segregation or suspension from the facility for a maximum of 15 days.

(19) In addition to any other penalty or disciplinary action imposed by an adjustment team, transfer to medium or maximum security confinement for suspension or termination from the facility program can be recommended for consideration by the facility's classification team.

(20) All disciplinary action shall be made a matter of facility records.

(21) Deviation from normal feeding procedures may not be used as a disciplinary action.

(22) Corporal punishment, in any form, may not be permitted.

(23) Contraband is anything not specifically authorized by the facility rules. The inmate rules and regulations shall stipulate what an inmate may or may not have on his person or in his sleeping quarters.

(24) Inmates shall be allowed to be reasonably visited by and to correspond with family members, friends, religious advisors, and prospective employers.

(25) The facility shall publish and post regulations and visiting hour schedules in an area within the facility that is accessible to inmates and to the public.

(26) Inmates shall be allowed at least twice weekly visits with family and friends.

(27) Denial of visits may not be used as a punishment, unless the reason for the denial stems from serious violation of the visiting rules or justifiable security threat.

(28) Confidential inmates' visits with their attorneys may not be denied at any time. Appropriate space for these visits shall be provided at the facility.

(29) There shall be established procedures for control of visits and handling of inmate mail.

(30) Mail sent from an inmate shall be sealed by the inmate and may not be opened or inspected by facility staff.



(31) Incoming inmate mail may be opened for inspection for contraband; however, it may not be read by the inspecting staff member and its confidentiality shall be maintained. Properly identified attorney and court mail for an inmate shall be opened only in the presence of the inmate to whom it is addressed.

(32) The facility shall permit inmates to reasonably decorate their sleeping quarters with personal possessions, pictures and posters.

(33) Inmates may not be forced to shave, or have their hair cut, unless there is a legitimate medical reason for doing so, and then only upon written orders by a physician.

(34) Each indigent inmate shall be entitled, upon entry into the facility and thereafter as often as it is necessary, to receive the following items on credit with reimbursement to be made by the inmate as soon as possible:

(a) Hygienic articles including toothpaste, a toothbrush, soap, a razor and razor blades, shaving cream and deodorant; and

(b) Paper, pencil, envelopes and stamps which allow an inmate written access to the courts, attorneys of record, and elected officials.

#### G. Work Release and Leave.

(1) The director or assistant director of a facility may grant an inmate the privilege of leaving the confines of the facility for the purpose of employment or seeking employment, participating in civic activities, volunteer work, or athletic competition, or making personal or family visits.

(2) For facilities staffed and operated by the Division of Correction, the Commissioner shall promulgate appropriate leave regulations subject to the approval of the Secretary.

(3) For facilities not staffed and operated by the Division of Correction, the following shall govern the granting of leave:

(a) The facility shall have a written leave policy which specifies the conditions under which an inmate may earn and be granted leave and the process for granting approval;

(b) Any leave granted shall be for a specifically designated purpose;

(c) The facility staff shall randomly verify the conformance of inmates on leave to the conditions of their leave;

(d) Unless they are within 4 weeks from actual release or parole, inmates may not be permitted to be on leave from the facility for more than two nights in any 7 day period;

(e) The director or assistant director shall specify, in writing, and sign the terms and conditions governing the granting of leave;

(f) Inmates on leave shall sign, and while on leave carry, their copy of the terms and conditions governing the grant of leave;

(g) The terms and conditions governing the grant of leave shall specify that "an inmate on leave shall be deemed to be in the custody of the facility to the same extent, and subject to the same supervision and control, as an inmate actually in the confinement of the Division of Correction, and any escape shall be punishable as provided in Criminal Procedure Article, §§9-406 and 9-407, Annotated Code of Maryland;" and

(h) Inmates on leave may not be permitted to visit any other state correctional institution without advance, written authorization from the managing officer of that institution.

(4) Facility staff or another responsible authority shall have a voice contact with each inmate's employer or trainer at least once every 2 weeks to verify attendance and determine progress in employment or training.

(5) For sentenced inmates involved in work release or other leave programs, urine specimens shall be collected at least every other week from all inmates and three times each week on alternate days, for all known drug users. A minimum of 50 percent of the samples collected shall be analyzed to determine drug usage.

(6) An inmate may not be permitted to leave the confines of the facility without being physically checked out of the facility by an authorized staff member.

(7) All inmates shall be checked into the facility by an authorized staff member.

#### H. Security.

(1) The facility shall establish and conform to appropriate written security procedures.

(2) Inmates shall be searched upon admission and periodically thereafter to prevent the flow of contraband.

(3) Complete facility shakedowns shall be conducted at least monthly.

(4) Any inmate personal property damaged, disassembled or otherwise left in a changed state by facility staff shall be returned to its original condition or, if necessary, replaced by the facility or the responsible staff members.

(5) Physical force shall only be used by facility personnel only to the extent necessary for self-defense, to protect staff, inmates and other individuals, to maintain order or to prevent escape or a riot.

(6) A written report of any use of physical force shall be made to the director and shall be maintained in the facility files.

(7) Facility keys shall be properly identified and stored in a secure area when not in use.

(8) A record shall be kept of all keys.

(9) Firearms, mace, tear gas or weapons of any other type may not be permitted in a facility.

#### **13A.16.10.04**

##### **Potentially Hazardous Items.**

A. An operator shall store all potentially harmful items, including but not limited to the items described in §§B–E of this regulation, in locations which are inaccessible to children in care.

B. Petroleum and flammable products shall be stored in an approved manner.

C. Cleaning and sanitizing agents and poisonous products shall be stored apart from food and beverages.

D. Containers of poisonous products may not be kept on the premises unless they are labeled clearly as to nature, content, and approved purposes.

E. A pesticide may be used only if it is:

(1) Approved by the U.S. Environmental Protection Agency;

(2) Used according to the manufacturer's instructions;

(3) Used only when children are not in care; and

(4) Stored apart from food, beverages, and cleaning agents.

F. Each electrical socket that is accessible to children in care shall be plugged or capped as required by the applicable fire code.

G. Except in a small center located in a residence, a firearm may not be kept on the premises.

H. In a small center located in a residence where a firearm is maintained, the firearm shall be kept:

(1) In a location not used by children in care; and

(2) Unloaded and partially disassembled in a locked container with ammunition stored in its own separate locked container.

I. Window Coverings. A window covering installed:

(1) Before October 1, 2010, shall not have unsecured cords, beads, ropes, or strings that are accessible to a child in care; or

(2) On or after October 1, 2010, shall be cordless.

## UNITED STATES CODE

### **18 USC §921. Definitions**

(a) As used in this chapter-

(1) The term "person" and the term "whoever" include any individual, corporation, company, association, firm, partnership, society, or joint stock company.

(2) The term "interstate or foreign commerce" includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, but such term does not include commerce between places within the same State but through any place outside of that State. The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

(3) The term "firearm" means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device. Such term does not include an antique firearm.

(4) The term "destructive device" means-

(A) any explosive, incendiary, or poison gas-

(i) bomb,

(ii) grenade,

(iii) rocket having a propellant charge of more than four ounces,

(iv) missile having an explosive or incendiary charge of more than one-quarter ounce,

(v) mine, or

(vi) device similar to any of the devices described in the preceding clauses;

(B) any type of weapon (other than a shotgun or a shotgun shell which the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and

(C) any combination of parts either designed or intended for use in converting any device into any destructive device described in subparagraph (A) or (B) and from which a destructive device may be readily assembled.

The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally

designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of [section 7684\(2\)](#), [7685](#), or [7686](#) of title 10; or any other device which the Attorney General finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational or cultural purposes.

(5) The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) The term "short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification or otherwise) if such a weapon as modified has an overall length of less than twenty-six inches.

(7) The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of an explosive to fire only a single projectile through a rifled bore for each single pull of the trigger.

(8) The term "short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon, as modified, has an overall length of less than twenty-six inches.

(9) The term "importer" means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term "licensed importer" means any such person licensed under the provisions of this chapter.

(10) The term "manufacturer" means any person engaged in the business of manufacturing firearms or ammunition for purposes of sale or distribution; and the term "licensed manufacturer" means any such person licensed under the provisions of this chapter.

(11) The term "dealer" means (A) any person engaged in the business of selling firearms at wholesale or retail, (B) any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (C) any person who is a pawnbroker. The term "licensed dealer" means any dealer who is licensed under the provisions of this chapter.

(12) The term "pawnbroker" means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm as security for the payment or repayment of money.

(13) The term "collector" means any person who acquires, holds, or disposes of firearms as curios or relics, as the Attorney General shall by regulation define, and the term "licensed collector" means any such person licensed under the provisions of this chapter.

(14) The term "indictment" includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

(15) The term "fugitive from justice" means any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(16) The term "antique firearm" means-

(A) any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or

(B) any replica of any firearm described in subparagraph (A) if such replica-

(i) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

(ii) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade; or

(C) any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. For purposes of this subparagraph, the term "antique firearm" shall not include any weapon which incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

(17)(A) The term "ammunition" means ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

(B) The term "armor piercing ammunition" means-

(i) a projectile or projectile core which may be used in a handgun and which is constructed entirely (excluding the presence of traces of other substances) from one or a combination of tungsten alloys, steel, iron, brass, bronze, beryllium copper, or depleted uranium; or

(ii) a full jacketed projectile larger than .22 caliber designed and intended for use in a handgun and whose jacket has a weight of more than 25 percent of the total weight of the projectile.

(C) The term "armor piercing ammunition" does not include shotgun shot required by Federal or State environmental or game regulations for hunting purposes, a frangible projectile designed for target shooting, a projectile which the Attorney General finds is primarily intended to be used for sporting purposes, or any other projectile or projectile core which the Attorney General finds is intended to be used for industrial purposes, including a charge used in an oil and gas well perforating device.

(18) The term "Attorney General" means the Attorney General of the United States

1

(19) The term "published ordinance" means a published law of any political subdivision of a State which the Attorney General determines to be relevant to the enforcement of this chapter and which is contained on a list compiled by the Attorney General, which list shall be published in the Federal Register, revised annually, and furnished to each licensee under this chapter.

(20) The term "crime punishable by imprisonment for a term exceeding one year" does not include-

(A) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices, or

(B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.

What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(21) The term "engaged in the business" means-

(A) as applied to a manufacturer of firearms, a person who devotes time, attention, and labor to manufacturing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms manufactured;

(B) as applied to a manufacturer of ammunition, a person who devotes time, attention, and labor to manufacturing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition manufactured;

(C) as applied to a dealer in firearms, as defined in section 921(a)(11)(A), a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms, but such term shall not include a person who makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or who sells all or part of his personal collection of firearms;

(D) as applied to a dealer in firearms, as defined in section 921(a)(11)(B), a person who devotes time, attention, and labor to engaging in such activity as a regular course of trade or business with the principal objective of livelihood and profit, but such term shall not include a person who makes occasional repairs of

firearms, or who occasionally fits special barrels, stocks, or trigger mechanisms to firearms;

(E) as applied to an importer of firearms, a person who devotes time, attention, and labor to importing firearms as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the firearms imported; and

(F) as applied to an importer of ammunition, a person who devotes time, attention, and labor to importing ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of the ammunition imported.

(22) The term "to predominantly earn a profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term "terrorism" means activity, directed against United States persons, which-

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended-

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.

(23) The term "with the principal objective of livelihood and profit" means that the intent underlying the sale or disposition of firearms is predominantly one of obtaining livelihood and pecuniary gain, as opposed to other intents, such as improving or liquidating a personal firearms collection: *Provided*, That proof of profit shall not be required as to a person who engages in the regular and repetitive purchase and disposition of firearms for criminal purposes or terrorism. For purposes of this paragraph, the term "terrorism" means activity, directed against United States persons, which-

(A) is committed by an individual who is not a national or permanent resident alien of the United States;

(B) involves violent acts or acts dangerous to human life which would be a criminal violation if committed within the jurisdiction of the United States; and

(C) is intended-

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping.



(24) The term "machinegun" has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C. 5845(b)).

(25) The terms "firearm silencer" and "firearm muffler" mean any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication.

(26) The term "school zone" means-

- (A) in, or on the grounds of, a public, parochial or private school; or
- (B) within a distance of 1,000 feet from the grounds of a public, parochial or private school.

(27) The term "school" means a school which provides elementary or secondary education, as determined under State law.

(28) The term "motor vehicle" has the meaning given such term in section 13102 of title 49, United States Code.

(29) The term "semiautomatic rifle" means any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

(30) The term "handgun" means-

- (A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and
- (B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.

[(31) Repealed. Pub. L. 103-322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(32) The term "intimate partner" means, with respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, and an individual who cohabitates or has cohabited with the person.

(33)(A) Except as provided in subparagraphs (B) and (C), the term "misdemeanor crime of domestic violence" means an offense that-

- (i) is a misdemeanor under Federal, State, Tribal, or local law; and
- (ii) has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, by a person similarly situated to a spouse, parent, or guardian of the victim, or by a person who has a current or recent former dating relationship with the victim.

(B)(i) A person shall not be considered to have been convicted of such an offense for purposes of this chapter, unless-

(I) the person was represented by counsel in the case, or knowingly and intelligently waived the right to counsel in the case; and

(II) in the case of a prosecution for an offense described in this paragraph for which a person was entitled to a jury trial in the jurisdiction in which the case was tried, either

(aa) the case was tried by a jury, or

(bb) the person knowingly and intelligently waived the right to have the case tried by a jury, by guilty plea or otherwise.

(ii) A person shall not be considered to have been convicted of such an offense for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms.

(C) A person shall not be considered to have been convicted of a misdemeanor crime of domestic violence against an individual in a dating relationship for purposes of this chapter if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had firearm rights restored unless the expungement, pardon, or restoration of rights expressly provides that the person may not ship, transport, possess, or receive firearms: *Provided*, That, in the case of a person who has not more than 1 conviction of a misdemeanor crime of domestic violence against an individual in a dating relationship, and is not otherwise prohibited under this chapter, the person shall not be disqualified from shipping, transport, possession, receipt, or purchase of a firearm under this chapter if 5 years have elapsed from the later of the judgment of conviction or the completion of the person's custodial or supervisory sentence, if any, and the person has not subsequently been convicted of another such offense, a misdemeanor under Federal, State, Tribal, or local law which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, or any other offense that would disqualify the person under section 922(g). The national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (34 U.S.C. 40901) shall be updated to reflect the status of the person. Restoration under this subparagraph is not available for a current or former spouse, parent, or guardian of the victim, a person with whom the victim shares a child in common, a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or a person similarly situated to a spouse, parent, or guardian of the victim.

(34) The term "secure gun storage or safety device" means-

(A) a device that, when installed on a firearm, is designed to prevent the firearm from being operated without first deactivating the device;

(B) a device incorporated into the design of the firearm that is designed to prevent the operation of the firearm by anyone not having access to the device; or

(C) a safe, gun safe, gun case, lock box, or other device that is designed to be or can be used to store a firearm and that is designed to be unlocked only by means of a key, a combination, or other similar means.

(35) The term "body armor" means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(36) The term "local law enforcement authority" means a bureau, office, department or other authority of a State or local government or Tribe that has jurisdiction to investigate a violation or potential violation of, or enforce, a State, local, or Tribal law.

(37)(A) The term "dating relationship" means a relationship between individuals who have or have recently had a continuing serious relationship of a romantic or intimate nature.

(B) Whether a relationship constitutes a dating relationship under subparagraph (A) shall be determined based on consideration of-

(i) the length of the relationship;

(ii) the nature of the relationship; and

(iii) the frequency and type of interaction between the individuals involved in the relationship.

(C) A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a dating relationship under subparagraph (A).

(b) For the purposes of this chapter, a member of the Armed Forces on active duty is a resident of the State in which his permanent duty station is located.

## **18 U.S.C. §922. Unlawful acts**

(a) It shall be unlawful-

(1) for any person-

(A) except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or receive any firearm in interstate or foreign commerce; or

(B) except a licensed importer or licensed manufacturer, to engage in the business of importing or manufacturing ammunition, or in the course of such business, to ship, transport, or receive any ammunition in interstate or foreign commerce;

(2) for any importer, manufacturer, dealer, or collector licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce any firearm to any person other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, except that-

(A) this paragraph and subsection (b)(3) shall not be held to preclude a licensed importer, licensed manufacturer, licensed dealer, or licensed collector from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received; and this paragraph shall not be held to preclude an individual from mailing a firearm owned in compliance with Federal, State, and local law to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector;

(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of [section 1715 of this title](#), is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty; and

(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States;

(3) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector to transport into or receive in the State where he resides (or if the person is a corporation or other business entity, the State where it maintains a place of business) any firearm purchased or otherwise obtained by such person outside that State, except that this paragraph (A) shall not preclude any person who lawfully acquires a firearm by bequest or intestate succession in a State other than his State of residence from transporting the firearm into or receiving it in that State, if it is lawful for such person to purchase or possess such firearm in that State, (B) shall not apply to the transportation or receipt of a firearm obtained in conformity with subsection (b)(3) of this section, and (C) shall not apply to the transportation of any firearm acquired in any State prior to the effective date of this chapter;

(4) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, to transport in interstate or foreign commerce any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity;

(5) for any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) to transfer, sell, trade, give, transport, or deliver any firearm to any person (other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector) who the transferor knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the transferor resides; except that this paragraph shall not

apply to (A) the transfer, transportation, or delivery of a firearm made to carry out a bequest of a firearm to, or an acquisition by intestate succession of a firearm by, a person who is permitted to acquire or possess a firearm under the laws of the State of his residence, and (B) the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(6) for any person in connection with the acquisition or attempted acquisition of any firearm or ammunition from a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, intended or likely to deceive such importer, manufacturer, dealer, or collector with respect to any fact material to the lawfulness of the sale or other disposition of such firearm or ammunition under the provisions of this chapter;

(7) for any person to manufacture or import armor piercing ammunition, unless-

(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) the manufacture of such ammunition is for the purpose of exportation; or

(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery-

(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

(B) is for the purpose of exportation; or

(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;<sup>1</sup>

(9) for any person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, who does not reside in any State to receive any firearms unless such receipt is for lawful sporting purposes.

(b) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector to sell or deliver-

(1) any firearm or ammunition to any individual who the licensee knows or has reasonable cause to believe is less than eighteen years of age, and, if the firearm, or ammunition is other than a shotgun or rifle, or ammunition for a shotgun or rifle, to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age;

(2) any firearm to any person in any State where the purchase or possession by such person of such firearm would be in violation of any State law or any published ordinance applicable at the place of sale, delivery or other disposition, unless the licensee knows or has reasonable cause to believe that the purchase or

possession would not be in violation of such State law or such published ordinance;

(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located, except that this paragraph (A) shall not apply to the sale or delivery of any rifle or shotgun to a resident of a State other than a State in which the licensee's place of business is located if the transferee meets in person with the transferor to accomplish the transfer, and the sale, delivery, and receipt fully comply with the legal conditions of sale in both such States (and any licensed manufacturer, importer or dealer shall be presumed, for purposes of this subparagraph, in the absence of evidence to the contrary, to have had actual knowledge of the State laws and published ordinances of both States), and (B) shall not apply to the loan or rental of a firearm to any person for temporary use for lawful sporting purposes;

(4) to any person any destructive device, machinegun (as defined in section 5845 of the Internal Revenue Code of 1986), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Attorney General consistent with public safety and necessity; and

(5) any firearm or armor-piercing ammunition to any person unless the licensee notes in his records, required to be kept pursuant to [section 923 of this chapter](#), the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3), and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, and licensed collectors. Paragraph (4) of this subsection shall not apply to a sale or delivery to any research organization designated by the Attorney General.

(c) In any case not otherwise prohibited by this chapter, a licensed importer, licensed manufacturer, or licensed dealer may sell a firearm to a person who does not appear in person at the licensee's business premises (other than another licensed importer, manufacturer, or dealer) only if-

(1) the transferee submits to the transferor a sworn statement in the following form:

"Subject to penalties provided by law, I swear that, in the case of any firearm other than a shotgun or a rifle, I am twenty-one years or more of age, or that, in the case of a shotgun or a rifle, I am eighteen years or more of age; that I am not prohibited by the provisions of [chapter 44 of title 18, United States Code](#), from receiving a firearm in interstate or foreign commerce; and that my receipt of this firearm will not be in violation of any statute of the State and published ordinance applicable to the locality in which I reside. Further, the true title, name, and address of the principal law enforcement officer of the locality to which the firearm will be delivered are \_\_\_\_\_

\_\_\_\_\_  
Signature \_\_\_\_\_ Date \_\_\_\_\_."

and containing blank spaces for the attachment of a true copy of any permit or other information required pursuant to such statute or published ordinance;

(2) the transferor has, prior to the shipment or delivery of the firearm, forwarded by registered or certified mail (return receipt requested) a copy of the sworn statement, together with a description of the firearm, in a form prescribed by the Attorney General, to the chief law enforcement officer of the transferee's place of residence, and has received a return receipt evidencing delivery of the statement or has had the statement returned due to the refusal of the named addressee to accept such letter in accordance with United States Post Office Department regulations; and

(3) the transferor has delayed shipment or delivery for a period of at least seven days following receipt of the notification of the acceptance or refusal of delivery of the statement.

A copy of the sworn statement and a copy of the notification to the local law enforcement officer, together with evidence of receipt or rejection of that notification shall be retained by the licensee as a part of the records required to be kept under section 923(g).

(d) It shall be unlawful for any person to sell or otherwise dispose of any firearm or ammunition to any person knowing or having reasonable cause to believe that such person, including as a juvenile-

(1) is under indictment for, or has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) is a fugitive from justice;

(3) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) has been adjudicated as a mental defective or has been committed to any mental institution at 16 years of age or older;

(5) who, being an alien-

(A) is illegally or unlawfully in the United States; or

(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who <sup>2</sup> has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) is subject to a court order that restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, except that this paragraph shall only apply to a court order that-

(A) was issued after a hearing of which such person received actual notice, and at which such person had the opportunity to participate; and

(B)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

(9) has been convicted in any court of a misdemeanor crime of domestic violence;

(10) intends to sell or otherwise dispose of the firearm or ammunition in furtherance of a felony, a Federal crime of terrorism, or a drug trafficking offense (as such terms are defined in section 932(a)); or

(11) intends to sell or otherwise dispose of the firearm or ammunition to a person described in any of paragraphs (1) through (10).

This subsection shall not apply with respect to the sale or disposition of a firearm or ammunition to a licensed importer, licensed manufacturer, licensed dealer, or licensed collector who pursuant to subsection (b) of section 925 is not precluded from dealing in firearms or ammunition, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925.

(e) It shall be unlawful for any person knowingly to deliver or cause to be delivered to any common or contract carrier for transportation or shipment in interstate or foreign commerce, to persons other than licensed importers, licensed manufacturers, licensed dealers, or licensed collectors, any package or other container in which there is any firearm or ammunition without written notice to the carrier that such firearm or ammunition is being transported or shipped; except that any passenger who owns or legally possesses a firearm or ammunition being transported aboard any common or contract carrier for movement with the passenger in interstate or foreign commerce may deliver said firearm or ammunition into the custody of the pilot, captain, conductor or operator of such common or contract carrier for the duration of the trip without violating any of the provisions of this chapter. No common or contract carrier shall require or cause any label, tag, or other written notice to be placed on the outside of any package, luggage, or other container that such package, luggage, or other container contains a firearm.

(f)(1) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm or ammunition with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

(2) It shall be unlawful for any common or contract carrier to deliver in interstate or foreign commerce any firearm without obtaining written acknowledgement of receipt from the recipient of the package or other container in which there is a firearm.

(g) It shall be unlawful for any person-

(1) who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year;

(2) who is a fugitive from justice;

(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802));

(4) who has been adjudicated as a mental defective or who has been committed to a mental institution;



(5) who, being an alien-  
(A) is illegally or unlawfully in the United States; or  
(B) except as provided in subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(6) who has been discharged from the Armed Forces under dishonorable conditions;

(7) who, having been a citizen of the United States, has renounced his citizenship;

(8) who is subject to a court order that-

(A) was issued after a hearing of which such person received actual notice, and at which such person had an opportunity to participate;

(B) restrains such person from harassing, stalking, or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or

(ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury; or

(9) who has been convicted in any court of a misdemeanor crime of domestic violence,

to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(h) It shall be unlawful for any individual, who to that individual's knowledge and while being employed for any person described in any paragraph of subsection (g) of this section, in the course of such employment-

(1) to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or

(2) to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(i) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(j) It shall be unlawful for any person to receive, possess, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, which is moving as, which is a part of, which constitutes, or which has been shipped or transported in, interstate or foreign commerce, either before or after it was stolen, knowing or having reasonable cause to believe that the firearm or ammunition was stolen.

(k) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered or to possess or receive any firearm which has had the importer's or manufacturer's serial number removed, obliterated, or altered and has, at any time, been shipped or transported in interstate or foreign commerce.

(l) Except as provided in [section 925\(d\) of this chapter](#), it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

(m) It shall be unlawful for any licensed importer, licensed manufacturer, licensed dealer, or licensed collector knowingly to make any false entry in, to fail to make appropriate entry in, or to fail to properly maintain, any record which he is required to keep pursuant to [section 923 of this chapter](#) or regulations promulgated thereunder.

(n) It shall be unlawful for any person who is under indictment for a crime punishable by imprisonment for a term exceeding one year to ship or transport in interstate or foreign commerce any firearm or ammunition or receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

(o)(1) Except as provided in paragraph (2), it shall be unlawful for any person to transfer or possess a machinegun.

(2) This subsection does not apply with respect to-

(A) a transfer to or by, or possession by or under the authority of, the United States or any department or agency thereof or a State, or a department, agency, or political subdivision thereof; or

(B) any lawful transfer or lawful possession of a machinegun that was lawfully possessed before the date this subsection takes effect.

(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm-

(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(2) For purposes of this subsection-

(A) the term "firearm" does not include the frame or receiver of any such weapon;

(B) the term "major component" means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

(C) the term "Security Exemplar" means an object, to be fabricated at the direction of the Attorney General, that is-

- (i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and
- (ii) suitable for testing and calibrating metal detectors:

*Provided, however,* That at the close of such 12-month period, and at appropriate times thereafter the Attorney General shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a "Security Exemplar" which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

(3) Under such rules and regulations as the Attorney General shall prescribe, this subsection shall not apply to the manufacture, possession, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Attorney General shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

(4) The Attorney General shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

(5) This subsection shall not apply to any firearm which-

(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Attorney General and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.

(q)(1) The Congress finds and declares that-

(A) crime, particularly crime involving drugs and guns, is a pervasive, nationwide problem;

(B) crime at the local level is exacerbated by the interstate movement of drugs, guns, and criminal gangs;

(C) firearms and ammunition move easily in interstate commerce and have been found in increasing numbers in and around schools, as documented in numerous hearings in both the Committee on the Judiciary<sup>3</sup> the House of Representatives and the Committee on the Judiciary of the Senate;

(D) in fact, even before the sale of a firearm, the gun, its component parts, ammunition, and the raw materials from which they are made have considerably moved in interstate commerce;

(E) while criminals freely move from State to State, ordinary citizens and foreign visitors may fear to travel to or through certain parts of the country due to concern about violent crime and gun violence, and parents may decline to send their children to school for the same reason;

(F) the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country;

(G) this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States;

(H) States, localities, and school systems find it almost impossible to handle gun-related crime by themselves—even States, localities, and school systems that have made strong efforts to prevent, detect, and punish gun-related crime find their efforts unavailing due in part to the failure or inability of other States or localities to take strong measures; and

(I) the Congress has the power, under the interstate commerce clause and other provisions of the Constitution, to enact measures to ensure the integrity and safety of the Nation's schools by enactment of this subsection.

(2)(A) It shall be unlawful for any individual knowingly to possess a firearm that has moved in or that otherwise affects interstate or foreign commerce at a place that the individual knows, or has reasonable cause to believe, is a school zone.

(B) Subparagraph (A) does not apply to the possession of a firearm-

(i) on private property not part of school grounds;

(ii) if the individual possessing the firearm is licensed to do so by the State in which the school zone is located or a political subdivision of the State, and the law of the State or political subdivision requires that, before an individual obtains such a license, the law enforcement authorities of the State or political subdivision verify that the individual is qualified under law to receive the license;

(iii) that is-

(I) not loaded; and

(II) in a locked container, or a locked firearms rack that is on a motor vehicle;

(iv) by an individual for use in a program approved by a school in the school zone;

(v) by an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(vi) by a law enforcement officer acting in his or her official capacity; or

(vii) that is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

(3)(A) Except as provided in subparagraph (B), it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm that has moved in or that otherwise

affects interstate or foreign commerce at a place that the person knows is a school zone.

(B) Subparagraph (A) does not apply to the discharge of a firearm-

- (i) on private property not part of school grounds;
- (ii) as part of a program approved by a school in the school zone, by an individual who is participating in the program;
- (iii) by an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
- (iv) by a law enforcement officer acting in his or her official capacity.

(4) Nothing in this subsection shall be construed as preempting or preventing a State or local government from enacting a statute establishing gun free school zones as provided in this subsection.

(r) It shall be unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under [section 925\(d\)\(3\) of this chapter](#) as not being particularly suitable for or readily adaptable to sporting purposes except that this subsection shall not apply to-

- (1) the assembly of any such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or
- (2) the assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Attorney General.

(s)(1) Beginning on the date that is 90 days after the date of enactment of this subsection and ending on the day before the date that is 60 months after such date of enactment, it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer a handgun (other than the return of a handgun to the person from whom it was received) to an individual who is not licensed under [section 923](#), unless-

(A) after the most recent proposal of such transfer by the transferee-

(i) the transferor has-

(I) received from the transferee a statement of the transferee containing the information described in paragraph (3);

(II) verified the identity of the transferee by examining the identification document presented;

(III) within 1 day after the transferee furnishes the statement, provided notice of the contents of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(IV) within 1 day after the transferee furnishes the statement, transmitted a copy of the statement to the chief law enforcement officer of the place of residence of the transferee; and

(ii)(I) 5 business days (meaning days on which State offices are open) have elapsed from the date the transferor furnished notice of the contents of the statement to the chief law enforcement officer, during which period the transferor has not received information from the chief law enforcement officer

that receipt or possession of the handgun by the transferee would be in violation of Federal, State, or local law; or

(II) the transferor has received notice from the chief law enforcement officer that the officer has no information indicating that receipt or possession of the handgun by the transferee would violate Federal, State, or local law;

(B) the transferee has presented to the transferor a written statement, issued by the chief law enforcement officer of the place of residence of the transferee during the 10-day period ending on the date of the most recent proposal of such transfer by the transferee, stating that the transferee requires access to a handgun because of a threat to the life of the transferee or of any member of the household of the transferee;

(C)(i) the transferee has presented to the transferor a permit that-

(I) allows the transferee to possess or acquire a handgun; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of the law;

(D) the law of the State requires that, before any licensed importer, licensed manufacturer, or licensed dealer completes the transfer of a handgun to an individual who is not licensed under section 923, an authorized government official verify that the information available to such official does not indicate that possession of a handgun by the transferee would be in violation of law;

(E) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(F) on application of the transferor, the Attorney General has certified that compliance with subparagraph (A)(i)(III) is impracticable because-

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the transferor at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer; and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(2) A chief law enforcement officer to whom a transferor has provided notice pursuant to paragraph (1)(A)(i)(III) shall make a reasonable effort to ascertain within 5 business days whether receipt or possession would be in violation of the law, including research in whatever State and local recordkeeping systems are available and in a national system designated by the Attorney General.

(3) The statement referred to in paragraph (1)(A)(i)(I) shall contain only-

(A) the name, address, and date of birth appearing on a valid identification document (as defined in section 1028(d)(1) <sup>4</sup>) of the transferee containing a photograph of the transferee and a description of the identification used;

(B) a statement that the transferee-

(i) is not under indictment for, and has not been convicted in any court of, a crime punishable by imprisonment for a term exceeding 1 year, and has not been convicted in any court of a misdemeanor crime of domestic violence;

(ii) is not a fugitive from justice;

(iii) is not an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act);

(iv) has not been adjudicated as a mental defective or been committed to a mental institution;

(v) is not an alien who-

(I) is illegally or unlawfully in the United States; or

(II) subject to subsection (y)(2), has been admitted to the United States under a nonimmigrant visa (as that term is defined in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)));

(vi) has not been discharged from the Armed Forces under dishonorable conditions; and

(vii) is not a person who, having been a citizen of the United States, has renounced such citizenship;

(C) the date the statement is made; and

(D) notice that the transferee intends to obtain a handgun from the transferor.

(4) Any transferor of a handgun who, after such transfer, receives a report from a chief law enforcement officer containing information that receipt or possession of the handgun by the transferee violates Federal, State, or local law shall, within 1 business day after receipt of such request, communicate any information related to the transfer that the transferor has about the transfer and the transferee to-

(A) the chief law enforcement officer of the place of business of the transferor; and

(B) the chief law enforcement officer of the place of residence of the transferee.

(5) Any transferor who receives information, not otherwise available to the public, in a report under this subsection shall not disclose such information except to the transferee, to law enforcement authorities, or pursuant to the direction of a court of law.

(6)(A) Any transferor who sells, delivers, or otherwise transfers a handgun to a transferee shall retain the copy of the statement of the transferee with respect to the handgun transaction, and shall retain evidence that the transferor has complied with subclauses (III) and (IV) of paragraph (1)(A)(i) with respect to the statement.

(B) Unless the chief law enforcement officer to whom a statement is transmitted under paragraph (1)(A)(i)(IV) determines that a transaction would violate Federal, State, or local law-

(i) the officer shall, within 20 business days after the date the transferee made the statement on the basis of which the notice was provided, destroy the

statement, any record containing information derived from the statement, and any record created as a result of the notice required by paragraph (1)(A)(i)(III);

(ii) the information contained in the statement shall not be conveyed to any person except a person who has a need to know in order to carry out this subsection; and

(iii) the information contained in the statement shall not be used for any purpose other than to carry out this subsection.

(C) If a chief law enforcement officer determines that an individual is ineligible to receive a handgun and the individual requests the officer to provide the reason for such determination, the officer shall provide such reasons to the individual in writing within 20 business days after receipt of the request.

(7) A chief law enforcement officer or other person responsible for providing criminal history background information pursuant to this subsection shall not be liable in an action at law for damages-

(A) for failure to prevent the sale or transfer of a handgun to a person whose receipt or possession of the handgun is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a handgun.

(8) For purposes of this subsection, the term "chief law enforcement officer" means the chief of police, the sheriff, or an equivalent officer or the designee of any such individual.

(9) The Attorney General shall take necessary actions to ensure that the provisions of this subsection are published and disseminated to licensed dealers, law enforcement officials, and the public.

(t)(1) Beginning on the date that is 30 days after the Attorney General notifies licensees under section 103(d) of the Brady Handgun Violence Prevention Act that the national instant criminal background check system is established, a licensed importer, licensed manufacturer, or licensed dealer shall not transfer a firearm to any other person who is not licensed under this chapter, unless-

(A) before the completion of the transfer, the licensee contacts the national instant criminal background check system established under section 103 of that Act;

(B)(i) the system provides the licensee with a unique identification number; or  
(ii) subject to subparagraph (C), 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that the receipt of a firearm by such other person would violate subsection (g) or (n) of this section, or State, local, or Tribal law; and

(C) in the case of a person less than 21 years of age, in addition to all other requirements of this chapter-

(i) the system provides the licensee with a unique identification number;

(ii) 3 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that cause exists to further investigate a possibly disqualifying juvenile record under subsection (d); or



(iii) in the case of such a person with respect to whom the system notifies the licensee in accordance with clause (ii) that cause exists to further investigate a possibly disqualifying juvenile record under subsection (d), 10 business days (meaning a day on which State offices are open) have elapsed since the licensee contacted the system, and the system has not notified the licensee that-

(I) transferring the firearm to the other person would violate subsection (d) of this section; or

(II) receipt of a firearm by the other person would violate subsection (g) or (n) of this section, or State, local, or Tribal law; and

(D) the transferor has verified the identity of the transferee by examining a valid identification document (as defined in [section 1028\(d\) of this title](#)) of the transferee containing a photograph of the transferee.

(2) If transfer or receipt of a firearm would not violate subsection (d), (g), or (n) (as applicable) or State, local or Tribal law, the system shall-

(A) assign a unique identification number to the transfer;

(B) provide the licensee with the number; and

(C) destroy all records of the system with respect to the call (other than the identifying number and the date the number was assigned) and all records of the system relating to the person or the transfer.

(3) Paragraph (1) shall not apply to a firearm transfer between a licensee and another person if-

(A)(i) such other person has presented to the licensee a permit that-

(I) allows such other person to possess or acquire a firearm; and

(II) was issued not more than 5 years earlier by the State in which the transfer is to take place; and

(ii) the law of the State provides that such a permit is to be issued only after an authorized government official has verified that the information available to such official does not indicate that possession of a firearm by such other person would be in violation of law;

(B) the Attorney General has approved the transfer under section 5812 of the Internal Revenue Code of 1986; or

(C) on application of the transferor, the Attorney General has certified that compliance with paragraph (1)(A) is impracticable because-

(i) the ratio of the number of law enforcement officers of the State in which the transfer is to occur to the number of square miles of land area of the State does not exceed 0.0025;

(ii) the business premises of the licensee at which the transfer is to occur are extremely remote in relation to the chief law enforcement officer (as defined in subsection (s)(8)); and

(iii) there is an absence of telecommunications facilities in the geographical area in which the business premises are located.

(4) If the national instant criminal background check system notifies the licensee that the information available to the system does not demonstrate that the transfer of a firearm to or receipt of a firearm by such other person would violate subsection (d), (g), or (n) (as applicable) or State <sup>5</sup> local, or Tribal law, and the licensee transfers a firearm to such other person, the licensee shall include in the record of the transfer the unique identification number provided by the system with respect to the transfer.

(5) If the licensee knowingly transfers a firearm to such other person and knowingly fails to comply with paragraph (1) of this subsection with respect to the transfer and, at the time such other person most recently proposed the transfer, the national instant criminal background check system was operating and information was available to the system demonstrating that transfer of a firearm to or receipt of a firearm by such other person would violate subsection (d), (g), or (n) (as applicable) of this section or State <sup>5</sup> local, or Tribal law, the Attorney General may, after notice and opportunity for a hearing, suspend for not more than 6 months or revoke any license issued to the licensee under section 923, and may impose on the licensee a civil fine of not more than \$5,000.

(6) Neither a local government nor an employee of the Federal Government or of any State or local government, responsible for providing information to the national instant criminal background check system shall be liable in an action at law for damages-

(A) for failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful under this section; or

(B) for preventing such a sale or transfer to a person who may lawfully receive or possess a firearm.

(u) It shall be unlawful for a person to steal or unlawfully take or carry away from the person or the premises of a person who is licensed to engage in the business of importing, manufacturing, or dealing in firearms, any firearm in the licensee's business inventory that has been shipped or transported in interstate or foreign commerce.

[(v), (w) Repealed. Pub. L. 103-322, title XI, §110105(2), Sept. 13, 1994, 108 Stat. 2000.]

(x)(1) It shall be unlawful for a person to sell, deliver, or otherwise transfer to a person who the transferor knows or has reasonable cause to believe is a juvenile-

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(2) It shall be unlawful for any person who is a juvenile to knowingly possess-

(A) a handgun; or

(B) ammunition that is suitable for use only in a handgun.

(3) This subsection does not apply to-

(A) a temporary transfer of a handgun or ammunition to a juvenile or to the possession or use of a handgun or ammunition by a juvenile if the handgun and ammunition are possessed and used by the juvenile-

(i) in the course of employment, in the course of ranching or farming related to activities at the residence of the juvenile (or on property used for ranching or farming at which the juvenile, with the permission of the property owner or lessee, is performing activities related to the operation of the farm or ranch), target practice, hunting, or a course of instruction in the safe and lawful use of a handgun;

(ii) with the prior written consent of the juvenile's parent or guardian who is not prohibited by Federal, State, or local law from possessing a firearm, except-

(I) during transportation by the juvenile of an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in clause (i) is to take place and transportation by the juvenile of that handgun, unloaded and in a locked container, directly from the place at which such an activity took place to the transferor; or

(II) with respect to ranching or farming activities as described in clause (i), a juvenile may possess and use a handgun or ammunition with the prior written approval of the juvenile's parent or legal guardian and at the direction of an adult who is not prohibited by Federal, State or local law from possessing a firearm;

(iii) the juvenile has the prior written consent in the juvenile's possession at all times when a handgun is in the possession of the juvenile; and

(iv) in accordance with State and local law;

(B) a juvenile who is a member of the Armed Forces of the United States or the National Guard who possesses or is armed with a handgun in the line of duty;

(C) a transfer by inheritance of title (but not possession) of a handgun or ammunition to a juvenile; or

(D) the possession of a handgun or ammunition by a juvenile taken in defense of the juvenile or other persons against an intruder into the residence of the juvenile or a residence in which the juvenile is an invited guest.

(4) A handgun or ammunition, the possession of which is transferred to a juvenile in circumstances in which the transferor is not in violation of this subsection shall not be subject to permanent confiscation by the Government if its possession by the juvenile subsequently becomes unlawful because of the conduct of the juvenile, but shall be returned to the lawful owner when such handgun or ammunition is no longer required by the Government for the purposes of investigation or prosecution.

(5) For purposes of this subsection, the term "juvenile" means a person who is less than 18 years of age.

(6)(A) In a prosecution of a violation of this subsection, the court shall require the presence of a juvenile defendant's parent or legal guardian at all proceedings.

(B) The court may use the contempt power to enforce subparagraph (A).

(C) The court may excuse attendance of a parent or legal guardian of a juvenile defendant at a proceeding in a prosecution of a violation of this subsection for good cause shown.

(y) Provisions Relating to Aliens Admitted Under Nonimmigrant Visas.-

(1) Definitions.-In this subsection-

(A) the term "alien" has the same meaning as in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)); and

(B) the term "nonimmigrant visa" has the same meaning as in section 101(a)(26) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(26)).

(2) Exceptions.-Subsections (d)(5)(B), (g)(5)(B), and (s)(3)(B)(v)(II) do not apply to any alien who has been lawfully admitted to the United States under a nonimmigrant visa, if that alien is-

(A) admitted to the United States for lawful hunting or sporting purposes or is in possession of a hunting license or permit lawfully issued in the United States;

(B) an official representative of a foreign government who is-

(i) accredited to the United States Government or the Government's mission to an international organization having its headquarters in the United States; or

(ii) en route to or from another country to which that alien is accredited;

(C) an official of a foreign government or a distinguished foreign visitor who has been so designated by the Department of State; or

(D) a foreign law enforcement officer of a friendly foreign government entering the United States on official law enforcement business.

(3) Waiver.-

(A) Conditions for waiver.-Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5), if-

(i) the individual submits to the Attorney General a petition that meets the requirements of subparagraph (C); and

(ii) the Attorney General approves the petition.

(B) Petition.-Each petition under subparagraph (B) shall-

(i) demonstrate that the petitioner has resided in the United States for a continuous period of not less than 180 days before the date on which the petition is submitted under this paragraph; and

(ii) include a written statement from the embassy or consulate of the petitioner, authorizing the petitioner to acquire a firearm or ammunition and certifying that the alien would not, absent the application of subsection (g)(5)(B), otherwise be prohibited from such acquisition under subsection (g).

(C) Approval of petition.-The Attorney General shall approve a petition submitted in accordance with this paragraph, if the Attorney General determines that waiving the requirements of subsection (g)(5)(B) with respect to the petitioner-

(i) would be in the interests of justice; and

(ii) would not jeopardize the public safety.

(z) Secure Gun Storage or Safety Device.-

(1) In general.-Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

(2) Exceptions.-Paragraph (1) shall not apply to-

(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

(B) the transfer to, or possession by, a rail police officer directly employed by or contracted by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

(3) Liability for use.-

(A) In general.-Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

(B) Prospective actions.-A qualified civil liability action may not be brought in any Federal or State court.

(C) Defined term.-As used in this paragraph, the term "qualified civil liability action"-

(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if-

(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.