

SENATE BILL 179

E1, E5
SB 744/23 – JPR

(PRE-FILED)

4lr1125

By: **Senators Watson, Carozza, and Muse**
Requested: October 24, 2023
Introduced and read first time: January 10, 2024
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

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

4 FOR the purpose of establishing that a violation of a condition of probation, parole, or
5 mandatory supervision that involves the use or possession of a firearm is not a
6 technical violation for certain purposes; requiring the Commissioner of Correction to
7 provide a certain incarcerated individual with a certain reentry kit and assistance
8 in obtaining Medicaid benefits under certain circumstances; altering the elements of
9 certain prohibitions against using a certain firearm in the commission of a certain
10 crime; providing that the use of a firearm in the commission of the offense of
11 possession with intent to distribute a controlled dangerous substance is a crime of
12 violence for certain purposes; altering the penalties for unlawful possession of a
13 regulated firearm; and generally relating to criminal and correctional penalties and
14 procedures.

15 BY repealing and reenacting, without amendments,
16 Article – Correctional Services
17 Section 6–101(a)
18 Annotated Code of Maryland
19 (2017 Replacement Volume and 2023 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Correctional Services
22 Section 6–101(m)
23 Annotated Code of Maryland
24 (2017 Replacement Volume and 2023 Supplement)

25 BY adding to
26 Article – Correctional Services
27 Section 9–609.2

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2017 Replacement Volume and 2023 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Criminal Law
5 Section 4–204, 4–306(b), 4–404, and 14–101(a)
6 Annotated Code of Maryland
7 (2021 Replacement Volume and 2023 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article – Public Safety
10 Section 5–133(b)
11 Annotated Code of Maryland
12 (2022 Replacement Volume and 2023 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article – Public Safety
15 Section 5–133(b–1)
16 Annotated Code of Maryland
17 (2022 Replacement Volume and 2023 Supplement)
18 (As enacted by Chapter 622 of the Acts of the General Assembly of 2023)

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

21 **Article – Correctional Services**

22 6–101.

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

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

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

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

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

30 (4) absconding; **OR**

31 **(5) USE OR POSSESSION OF A FIREARM.**

32 **9–609.2.**

1 **BEFORE RELEASE OF AN INCARCERATED INDIVIDUAL FROM A STATE**
2 **CORRECTIONAL FACILITY, THE COMMISSIONER OF CORRECTION SHALL PROVIDE**
3 **THE INCARCERATED INDIVIDUAL WITH:**

4 **(1) A REENTRY KIT, INCLUDING:**

5 **(I) AT LEAST 1 WEEK OF SUPPLIES FOR BASIC HUMAN NEEDS,**
6 **INCLUDING TOILETRIES AND CLOTHING;**

7 **(II) THE IDENTIFICATION CARD REQUIRED TO BE ISSUED**
8 **UNDER § 9-609.1 OF THIS SUBTITLE;**

9 **(III) 1. CONTACT INFORMATION FOR ENTITIES THAT**
10 **SPECIALIZE IN PROVIDING REENTRY SERVICES, HOUSING ASSISTANCE, SUBSTANCE**
11 **USE DISORDER TREATMENT, AND MENTAL HEALTH SERVICES; AND**

12 **2. IF THE INCARCERATED INDIVIDUAL IS NOT ELIGIBLE**
13 **FOR MEDICAID BENEFITS, CONTACT INFORMATION FOR THE MARYLAND HEALTH**
14 **BENEFIT EXCHANGE; AND**

15 **(IV) PUBLIC TRANSPORTATION INFORMATION, INCLUDING**
16 **LOCAL PUBLIC TRANSPORTATION SCHEDULES AND MAPS; AND**

17 **(2) IF THE INCARCERATED INDIVIDUAL IS ELIGIBLE FOR MEDICAID**
18 **BENEFITS, ASSISTANCE IN OBTAINING MEDICAID BENEFITS.**

19 **Article – Criminal Law**

20 4-204.

21 (a) (1) In this section[, “firearm”] **THE FOLLOWING WORDS HAVE THE**
22 **MEANINGS INDICATED.**

23 **(2) (I) “FIREARM” means:**

24 **[(i)] 1. a weapon that expels, is designed to expel, or may readily**
25 **be converted to expel a projectile by the action of an explosive; or**

26 **[(ii)] 2. the frame or receiver of such a weapon.**

27 **[(2)] (II) “Firearm” includes an antique firearm, handgun, rifle, shotgun,**
28 **short-barreled rifle, short-barreled shotgun, starter gun, or any other firearm, whether**
29 **loaded or unloaded.**

30 **(3) “USE A FIREARM” DOES NOT INCLUDE THE MERE POSSESSION OF**

1 **A FIREARM.**

2 (b) A person may not use a firearm in the commission of a crime of violence, as
3 defined in § 5–101 of the Public Safety Article, or any felony, whether the firearm is
4 operable or inoperable at the time of the crime.

5 (c) (1) (i) A person who violates this section is guilty of a [misdemeanor]
6 **FELONY** and, in addition to any other penalty imposed for the crime of violence or felony,
7 shall be sentenced to imprisonment for not less than 5 years and not exceeding 20 years.

8 (ii) The court may not impose less than the minimum sentence of 5
9 years and, except as otherwise provided in § 4–305 of the Correctional Services Article, the
10 person is not eligible for parole in less than 5 years.

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

13 4–306.

14 (b) (1) **IN THIS SUBSECTION, “USES” DOES NOT INCLUDE MERE**
15 **POSSESSION.**

16 **(2)** A person who uses an assault weapon, a rapid fire trigger activator, or
17 a magazine that has a capacity of more than 10 rounds of ammunition, in the commission
18 of a felony or a crime of violence as defined in § 5–101 of the Public Safety Article is guilty
19 of a [misdemeanor] **FELONY** and on conviction, in addition to any other sentence imposed
20 for the felony or crime of violence, shall be sentenced under this subsection.

21 **[(2)] (3)** (i) For a first violation, the person shall be sentenced to
22 imprisonment for not less than 5 years and not exceeding 20 years.

23 (ii) The court may not impose less than the minimum sentence of 5
24 years.

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

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

29 **[(3)] (4)** (i) For each subsequent violation, the person shall be
30 sentenced to imprisonment for not less than 10 years and not exceeding 20 years.

31 (ii) The court may not impose less than the minimum sentence of 10
32 years.

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

3 4–404.

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

6 (b) A person who violates this section is guilty of a felony and on conviction is
7 subject to imprisonment not exceeding 20 years.

8 14–101.

9 (a) In this section, “crime of violence” means:

10 (1) abduction;

11 (2) arson in the first degree;

12 (3) kidnapping;

13 (4) manslaughter, except involuntary manslaughter;

14 (5) mayhem;

15 (6) maiming, as previously proscribed under former Article 27, §§ 385 and
16 386 of the Code;

17 (7) murder;

18 (8) rape;

19 (9) robbery under § 3–402 or § 3–403 of this article;

20 (10) carjacking;

21 (11) armed carjacking;

22 (12) sexual offense in the first degree;

23 (13) sexual offense in the second degree;

24 (14) use of a firearm in the commission of a felony [except possession with
25 intent to distribute a controlled dangerous substance under § 5–602(2) of this article,] or
26 other crime of violence;

27 (15) child abuse in the first degree under § 3–601 of this article;

- 1 (16) sexual abuse of a minor under § 3–602 of this article if:
- 2 (i) 1. the victim is under the age of 13 years and the offender is
3 an adult at the time of the offense; or
- 4 2. the offender is at least 21 years old and the victim is under
5 the age of 16 years; and
- 6 (ii) the offense involved:
- 7 1. vaginal intercourse, as defined in § 3–301 of this article;
- 8 2. a sexual act, as defined in § 3–301 of this article;
- 9 3. an act in which a part of the offender’s body penetrates,
10 however slightly, into the victim’s genital opening or anus; or
- 11 4. the intentional touching of the victim’s or the offender’s
12 genital, anal, or other intimate area for sexual arousal, gratification, or abuse;
- 13 (17) home invasion under § 6–202(b) of this article;
- 14 (18) a felony offense under Title 3, Subtitle 11 of this article;
- 15 (19) an attempt to commit any of the crimes described in items (1) through
16 (18) of this subsection;
- 17 (20) continuing course of conduct with a child under § 3–315 of this article;
- 18 (21) assault in the first degree;
- 19 (22) assault with intent to murder;
- 20 (23) assault with intent to rape;
- 21 (24) assault with intent to rob;
- 22 (25) assault with intent to commit a sexual offense in the first degree; and
- 23 (26) assault with intent to commit a sexual offense in the second degree.

24 **Article – Public Safety**

25 5–133.

26 (b) **(1)** Subject to § 5–133.3 of this subtitle, a person may not possess a

1 regulated firearm if the person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 [(12)] (XII) has been involuntarily committed to a facility as defined in §
2 10–101 of the Health – General Article;

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

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

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

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

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

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

19 1. EXCEPT AS PROVIDED IN ITEM 2 OF THIS
20 SUBPARAGRAPH, IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT
21 EXCEEDING \$10,000 OR BOTH; AND

22 2. SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION,
23 FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT NOT EXCEEDING 10
24 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.

25 (II) EACH VIOLATION OF THIS SUBSECTION IS A SEPARATE
26 CRIME.

27 (III) A PERSON CONVICTED UNDER THIS SUBSECTION IS NOT
28 PROHIBITED FROM PARTICIPATING IN A DRUG TREATMENT PROGRAM UNDER §
29 8–507 OF THE HEALTH – GENERAL ARTICLE BECAUSE OF THE LENGTH OF THE
30 SENTENCE.

31 **(3) THE COURT MAY NOT IMPOSE THE PENALTIES UNDER**
32 **PARAGRAPH (2)(I)2 OF THIS SUBSECTION UNLESS THE STATE’S ATTORNEY SERVES**
33 **NOTICE ON THE DEFENDANT OR THE DEFENDANT’S COUNSEL BEFORE THE**
34 **ACCEPTANCE OF A PLEA OF GUILTY OR NOLO CONTENDERE OR AT LEAST 15 DAYS**

1 BEFORE TRIAL THAT:

2 (I) THE STATE WILL SEEK THE PENALTIES UNDER PARAGRAPH
3 (2)(I)2 OF THIS SUBSECTION; AND

4 (II) LISTS THE ALLEGED PRIOR CONVICTIONS.

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2024.