

HOUSE BILL 809

E4, E2

3lr1290

By: **Delegates Simmons, Rosenberg, and McMillan**

Introduced and read first time: February 6, 2013

Assigned to: Health and Government Operations and Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Firearms – Criminal Justice Information System Central Repository –**
3 **Reporting, Qualifications for Possession, and Relief from Disqualification**

4 FOR the purpose of requiring a court to immediately notify the Criminal Justice
5 Information System (CJIS) Central Repository if the court makes a certain
6 finding that the person is a danger to self or to the person or property of
7 another; requiring a court to immediately notify CJIS if the court appoints a
8 guardian of the property or a guardian of the person of a disabled person;
9 requiring a certain facility or Veterans' Administration hospital to submit a
10 certain report of a voluntarily or involuntarily committed individual to CJIS;
11 requiring CJIS to notify the Federal Bureau of Investigation's National Instant
12 Criminal Background Check System if it receives a notice under certain
13 provisions of law; authorizing a certain person who is subject to certain
14 prohibitions from possessing certain firearms to apply for certain relief from
15 certain prohibitions under certain circumstances; establishing the procedures
16 and requirements for a person who is subject to certain prohibitions on the
17 possession of certain firearms to apply for certain relief for certain prohibitions;
18 requiring certain persons to enter into a certain memorandum of
19 understanding; establishing that certain information is not subject to public
20 inspection under the Public Information Act; altering certain provisions of law
21 to prohibit a person from possessing a firearm, obtaining a regulated firearm
22 dealer's license, or obtaining a handgun permit if the person has spent more
23 than a certain period of time in a certain health facility; prohibiting a person
24 from selling, renting, or transferring a regulated firearm to another person if
25 the person has reason to believe the other person has spent more than a certain
26 period of time in a certain health facility; defining a certain term; and generally
27 relating to reports to the Criminal Justice Information System Central
28 Repository and qualifications for possession of firearms.

29 BY adding to

30 Article – Courts and Judicial Proceedings

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 11–113
2 Annotated Code of Maryland
3 (2006 Replacement Volume and 2012 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – Criminal Procedure
6 Section 3–106(b) and (h) and 3–112
7 Annotated Code of Maryland
8 (2008 Replacement Volume and 2012 Supplement)

9 BY adding to
10 Article – Criminal Procedure
11 Section 10–230
12 Annotated Code of Maryland
13 (2008 Replacement Volume and 2012 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Estates and Trusts
16 Section 13–201 and 13–705
17 Annotated Code of Maryland
18 (2011 Replacement Volume and 2012 Supplement)

19 BY adding to
20 Article – Health – General
21 Section 10–611 and 10–616.1
22 Annotated Code of Maryland
23 (2009 Replacement Volume and 2012 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article – Public Safety
26 Section 5–107(b)(4)(viii), 5–114(b)(2)(vi), 5–118(b)(3)(vii), 5–133(b),
27 5–134(b)(9), and 5–205(a)(2)
28 Annotated Code of Maryland
29 (2011 Replacement Volume and 2012 Supplement)

30 BY adding to
31 Article – Public Safety
32 Section 5–133.1
33 Annotated Code of Maryland
34 (2011 Replacement Volume and 2012 Supplement)

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

37 **Article – Courts and Judicial Proceedings**

38 **11–113.**

1 IF AT ANY TIME A COURT MAKES A FINDING, INCLUDING A FINDING THAT
2 THERE IS PROBABLE CAUSE TO BELIEVE, THAT AN INDIVIDUAL IS A DANGER TO
3 SELF OR TO THE PERSON OR PROPERTY OF ANOTHER, THE COURT SHALL
4 IMMEDIATELY NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM
5 CENTRAL REPOSITORY.

6 **Article – Criminal Procedure**

7 3–106.

8 (b) (1) If, after a hearing, the court finds that the defendant is
9 incompetent to stand trial and, because of mental retardation or a mental disorder, is
10 a danger to self or the person or property of another, the court may order the
11 defendant committed to the facility that the Health Department designates until the
12 court finds that:

13 (i) the defendant no longer is incompetent to stand trial;

14 (ii) the defendant no longer is, because of mental retardation or
15 a mental disorder, a danger to self or the person or property of others; or

16 (iii) there is not a substantial likelihood that the defendant will
17 become competent to stand trial in the foreseeable future.

18 (2) If a court commits the defendant because of mental retardation,
19 the Health Department shall require the Developmental Disabilities Administration to
20 provide the care or treatment that the defendant needs.

21 (h) The court shall notify the Criminal Justice Information System Central
22 Repository of any commitment ordered or release authorized under this section and of
23 any determination that a defendant is no longer incompetent to stand trial.

24 3–112.

25 (a) Except as provided in subsection (c) of this section, after a verdict of not
26 criminally responsible, the court immediately shall commit the defendant to the
27 Health Department for institutional inpatient care or treatment.

28 (b) If the court commits a defendant who was found not criminally
29 responsible primarily because of mental retardation, the Health Department shall
30 designate a facility for mentally retarded persons for care and treatment of the
31 committed person.

1 (c) After a verdict of not criminally responsible, a court may order that a
 2 person be released, with or without conditions, instead of committed to the Health
 3 Department, but only if:

4 (1) the court has available an evaluation report within 90 days
 5 preceding the verdict made by an evaluating facility designated by the Health
 6 Department;

7 (2) the report indicates that the person would not be a danger, as a
 8 result of mental retardation or mental disorder, to self or to the person or property of
 9 others if released, with or without conditions; and

10 (3) the person and the State's Attorney agree to the release and to any
 11 conditions for release that the court imposes.

12 (d) The court shall notify the Criminal Justice Information System Central
 13 Repository of each person it orders committed under this section.

14 **10-230.**

15 **THE CENTRAL REPOSITORY SHALL NOTIFY THE FEDERAL BUREAU OF**
 16 **INVESTIGATION'S NATIONAL INSTANT CRIMINAL BACKGROUND CHECK**
 17 **SYSTEM (NICS) IF THE CENTRAL REPOSITORY RECEIVES A NOTICE UNDER:**

18 (1) **§ 11-113 OF THE COURTS ARTICLE;**

19 (2) **§ 3-106(H) OR § 3-112(D) OF THIS ARTICLE;**

20 (3) **§ 13-201(D) OR § 13-705(G) OF THE ESTATES AND TRUSTS**
 21 **ARTICLE;**

22 (4) **§ 10-611 OR § 10-616.1 OF THE HEALTH - GENERAL**
 23 **ARTICLE; OR**

24 (5) **§ 5-133.1(N) OF THE PUBLIC SAFETY ARTICLE.**

25 **Article - Estates and Trusts**

26 13-201.

27 (a) Upon petition, and after any notice or hearing prescribed by law or the
 28 Maryland Rules, the court may appoint a guardian of the property of a minor or a
 29 disabled person.

30 (b) A guardian shall be appointed if the court determines that:

1 (1) A minor owns or is entitled to property that requires management
2 or protection; or

3 (2) Funds are needed for his support, care, welfare, and education and
4 protection is necessary or desirable to obtain or provide funds.

5 (c) A guardian shall be appointed if the court determines that:

6 (1) The person is unable to manage his property and affairs effectively
7 because of physical or mental disability, disease, habitual drunkenness, addiction to
8 drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign
9 power, or disappearance; and

10 (2) The person has or may be entitled to property or benefits which
11 require proper management.

12 **(D) IF THE COURT APPOINTS A GUARDIAN OF THE PROPERTY OF A**
13 **DISABLED PERSON UNDER THIS SECTION, THE COURT SHALL IMMEDIATELY**
14 **NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL**
15 **REPOSITORY.**

16 13-705.

17 (a) On petition and after any notice or hearing prescribed by law or the
18 Maryland Rules, a court may appoint a guardian of the person of a disabled person.

19 (b) A guardian of the person shall be appointed if the court determines from
20 clear and convincing evidence that a person lacks sufficient understanding or capacity
21 to make or communicate responsible decisions concerning his person, including
22 provisions for health care, food, clothing, or shelter, because of any mental disability,
23 disease, habitual drunkenness, or addiction to drugs, and that no less restrictive form
24 of intervention is available which is consistent with the person's welfare and safety.

25 (c) (1) Procedures and venue in these cases shall be as described by Title
26 10, Chapters 100 and 200 of the Maryland Rules.

27 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
28 a petition for guardianship of a disabled person shall include signed and verified
29 certificates of competency from the following health care professionals:

30 (i) Two licensed physicians who have examined the disabled
31 person; or

32 (ii) 1. One licensed physician who has examined the
33 disabled person; and

1 2. A. One licensed psychologist who has evaluated
2 the disabled person; or

3 B. One licensed certified social worker—clinical who has
4 evaluated the disabled person.

5 (3) An examination or evaluation by at least one of the health care
6 professionals under paragraph (2) of this subsection shall occur within 21 days before
7 filing a petition for guardianship of a disabled person.

8 (d) (1) Subject to paragraph (2) of this subsection, unless the alleged
9 disabled person has counsel of his own choice, the court shall appoint an attorney to
10 represent him in the proceeding. If the person is indigent, the State shall pay a
11 reasonable attorney's fee.

12 (2) In any action in which payment for the services of a
13 court-appointed attorney for the alleged disabled person is the responsibility of the
14 local department of social services, unless the court finds that it would not be in the
15 best interests of the alleged disabled person, the court shall:

16 (i) Appoint an attorney who has contracted with the
17 Department of Human Resources to provide those services, in accordance with the
18 terms of the contract; and

19 (ii) In an action in which an attorney has previously been
20 appointed, strike the appearance of the attorney previously appointed and appoint the
21 attorney who is currently under contract with the Department of Human Resources, in
22 accordance with the terms of the contract.

23 (e) The person alleged to be disabled is entitled to be present at the hearing
24 unless he has knowingly and voluntarily waived the right to be present or cannot be
25 present because of physical or mental incapacity. Waiver or incapacity may not be
26 presumed from nonappearance but shall be determined on the basis of factual
27 information supplied to the court by counsel or a representative appointed by the
28 court. The person alleged to be disabled is also entitled to present evidence and to
29 cross-examine witnesses. The issue may be determined at a closed hearing without a
30 jury if the person alleged to be disabled or his counsel so requests and all hearings
31 herein shall be confidential and sealed unless otherwise ordered by a court of
32 competent jurisdiction for good cause shown.

33 (f) The court shall hear and rule on a petition seeking appointment of a
34 guardian of the person of a disabled person in connection with medical treatment on
35 an expedited basis.

36 **(G) IF THE COURT APPOINTS A GUARDIAN OF THE PERSON OF A**
37 **DISABLED PERSON UNDER THIS SECTION, THE COURT SHALL IMMEDIATELY**

1 NOTIFY THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL
2 REPOSITORY.

3 **Article – Health – General**

4 **10–611.**

5 IMMEDIATELY AFTER ADMISSION OF AN INDIVIDUAL TO A FACILITY
6 UNDER PART II OF THIS SUBTITLE, THE FACILITY SHALL SUBMIT TO THE
7 CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY A REPORT
8 CONTAINING ONLY AN ASSESSMENT OF THE INDIVIDUAL’S COMPETENCE TO
9 POSSESS, PURCHASE, OR TRANSFER A FIREARM.

10 **10–616.1.**

11 IMMEDIATELY AFTER ADMISSION OF AN INDIVIDUAL TO A FACILITY OR
12 VETERANS’ ADMINISTRATION HOSPITAL UNDER PART III OF THIS SUBTITLE,
13 THE FACILITY OR VETERANS’ ADMINISTRATION HOSPITAL SHALL SUBMIT TO
14 THE CRIMINAL JUSTICE INFORMATION SYSTEM CENTRAL REPOSITORY A
15 REPORT CONTAINING ONLY AN ASSESSMENT OF THE INDIVIDUAL’S
16 COMPETENCE TO POSSESS, PURCHASE, OR TRANSFER A FIREARM.

17 **Article – Public Safety**

18 **5–107.**

19 (b) An application for a dealer’s license shall contain:

20 (4) a statement by the applicant that the applicant:

21 (viii) has never spent more than [30 consecutive days] **1 DAY** in a
22 medical institution for treatment of a mental disorder, unless a physician’s certificate
23 issued within 30 days before the date of application is attached to the application,
24 certifying that the applicant is capable of possessing a regulated firearm without
25 undue danger to the applicant or to another.

26 **5–114.**

27 (b) The Secretary shall revoke a dealer’s license if:

28 (2) the licensee:

29 (vi) has spent more than [30 consecutive days] **1 DAY** in a
30 medical institution for treatment of a mental disorder, unless the licensee produces a
31 physician’s certificate, issued after the last institutionalization and certifying that the

1 licensee is capable of possessing a regulated firearm without undue danger to the
2 licensee or to another;

3 5–118.

4 (b) A firearm application shall contain:

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

7 (vii) has never spent more than [30 consecutive days] **1 DAY** in a
8 medical institution for treatment of a mental disorder, unless a physician's certificate
9 issued within 30 days before the date of application is attached to the application,
10 certifying that the firearm applicant is capable of possessing a regulated firearm
11 without undue danger to the firearm applicant or to another;

12 5–133.

13 (b) **[A] SUBJECT TO § 5–133.1 OF THIS SUBTITLE, A person may not**
14 **possess a regulated firearm if the person:**

15 (1) has been convicted of a disqualifying crime;

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

18 (3) is a fugitive from justice;

19 (4) is a habitual drunkard;

20 (5) is addicted to a controlled dangerous substance or is a habitual
21 user;

22 (6) suffers from a mental disorder as defined in § 10–101(f)(2) of the
23 Health – General Article and has a history of violent behavior against the person or
24 another[, unless the person has a physician's certificate that the person is capable of
25 possessing a regulated firearm without undue danger to the person or to another];

26 (7) has been confined for more than [30 consecutive days] **1 DAY** to a
27 facility as defined in § 10–101 of the Health – General Article[, unless the person has
28 a physician's certificate that the person is capable of possessing a regulated firearm
29 without undue danger to the person or to another];

30 (8) except as provided in subsection (e) of this section, is a respondent
31 against whom a current non ex parte civil protective order has been entered under §
32 4–506 of the Family Law Article; or

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

4 **5-133.1.**

5 (A) IN THIS SECTION, "HEALTH DEPARTMENT" MEANS THE
6 DEPARTMENT OF HEALTH AND MENTAL HYGIENE.

7 (B) A PERSON SUBJECT TO A REGULATED FIREARMS
8 DISQUALIFICATION UNDER § 5-133(B)(6) OR (7) OF THIS SUBTITLE OR UNDER
9 FEDERAL LAW BECAUSE OF A FINDING MADE UNDER § 11-113 OF THE COURTS
10 ARTICLE, § 3-106(H) OR § 3-112(D) OF THE CRIMINAL PROCEDURE ARTICLE, §
11 13-201(D) OR § 13-705(G) OF THE ESTATES AND TRUSTS ARTICLE, OR § 10-611
12 OR § 10-616.1 OF THE HEALTH - GENERAL ARTICLE MAY BE AUTHORIZED TO
13 POSSESS A FIREARM IF:

14 (1) THE PERSON IS NOT SUBJECT TO ANOTHER FIREARMS
15 RESTRICTION UNDER STATE OR FEDERAL LAW; AND

16 (2) THE HEALTH DEPARTMENT, IN ACCORDANCE WITH THIS
17 SECTION, DETERMINES THAT THE PERSON MAY POSSESS A FIREARM.

18 (C) A PERSON WHO SEEKS RELIEF FROM A FIREARMS
19 DISQUALIFICATION SHALL FILE AN APPLICATION WITH THE HEALTH
20 DEPARTMENT IN THE FORM AND MANNER SET BY THE HEALTH DEPARTMENT.

21 (D) (1) AN APPLICANT SHALL PROVIDE COMPLETE AND ACCURATE
22 DATA ON ALL INFORMATION REQUIRED IN AN APPLICATION UNDER THIS
23 SECTION.

24 (2) THE APPLICANT SHALL INCLUDE THE FOLLOWING
25 INFORMATION IN THE APPLICATION:

26 (I) THE REASON THAT THE APPLICANT IS PROHIBITED
27 FROM POSSESSING A REGULATED FIREARM AND THE REASON THAT THE
28 APPLICANT SHOULD BE RELIEVED FROM THAT PROHIBITION;

29 (II) A CERTIFICATE ON A FORM APPROVED BY THE HEALTH
30 DEPARTMENT AND SIGNED BY AN INDIVIDUAL LICENSED IN THE STATE AS A
31 PHYSICIAN WHO IS BOARD CERTIFIED IN PSYCHIATRY OR AS A PSYCHOLOGIST
32 AND LISTED IN THE NATIONAL REGISTER OF HEALTH SERVICE PROVIDERS IN
33 PSYCHOLOGY THAT PROVIDES:

1 1. **THAT THE CERTIFICATE WAS ISSUED WITHIN 30**
2 **DAYS OF THE DATE OF THE FILING OF THE PETITION;**

3 2. **THAT THE APPLICANT HAS BEEN EVALUATED AND**
4 **THE SIGNATORY REASONABLY BELIEVES THAT THE APPLICANT IS COMPETENT**
5 **TO UNDERSTAND AND COMPLY WITH THE RULES, REGULATIONS, AND LAWS**
6 **GOVERNING FIREARM OWNERSHIP AND POSSESSION AND THE RISKS AND**
7 **RESPONSIBILITIES INHERENT TO FIREARM OWNERSHIP;**

8 3. **THAT THERE IS NO REASON TO BELIEVE THAT THE**
9 **PERSON WILL BECOME INCOMPETENT IN THE FORESEEABLE FUTURE;**

10 4. **AN OPINION AS TO WHETHER THE APPLICANT**
11 **WILL BE LIKELY TO ACT IN A MANNER THAT IS DANGEROUS TO SELF OR PUBLIC**
12 **SAFETY; AND**

13 5. **AN OPINION ON WHETHER APPROVING A FIREARM**
14 **APPLICATION UNDER § 5-117 OF THIS SUBTITLE WOULD BE CONTRARY TO THE**
15 **PUBLIC INTEREST;**

16 **(III) A SIGNED AUTHORIZATION, ON A FORM APPROVED BY**
17 **THE HEALTH DEPARTMENT, ALLOWING THE HEALTH DEPARTMENT TO ACCESS**
18 **ALL RELEVANT HEALTH CARE, MENTAL HEALTH, DISABILITY, GUARDIANSHIP,**
19 **AND CRIMINAL JUSTICE RECORDS, INCLUDING COURT-ORDERED OR REQUIRED**
20 **MENTAL HEALTH RECORDS, OF THE APPLICANT FOR USE WITH THE PROCESS;**

21 **(IV) THREE STATEMENTS ON A FORM DESIGNATED BY THE**
22 **HEALTH DEPARTMENT ATTESTING TO THE APPLICANT'S REPUTATION AND**
23 **CHARACTER RELEVANT TO FIREARM OWNERSHIP OR POSSESSION; AND**

24 **(V) ANY OTHER INFORMATION REQUIRED BY THE HEALTH**
25 **DEPARTMENT.**

26 **(3) (I) AT LEAST TWO OF THE STATEMENTS REQUIRED UNDER**
27 **PARAGRAPH (2)(IV) OF THIS SUBSECTION SHALL BE PROVIDED BY AN**
28 **INDIVIDUAL WHO IS NOT RELATED TO THE APPLICANT.**

29 **(II) STATEMENTS PROVIDED UNDER PARAGRAPH (2)(IV) OF**
30 **THIS SUBSECTION MUST BE SIGNED AND DATED WITHIN 30 DAYS OF**
31 **SUBMISSION TO THE HEALTH DEPARTMENT AND PROVIDE CONTACT**
32 **INFORMATION FOR EACH INDIVIDUAL PROVIDING A STATEMENT.**

1 **(4) IF THE APPLICANT IS PROHIBITED FROM FIREARM**
2 **OWNERSHIP BECAUSE A COURT HAS APPOINTED A GUARDIAN UNDER §**
3 **13-201(D) OR § 13-705(G) OF THE ESTATES AND TRUSTS ARTICLE, THE**
4 **FOLLOWING ADDITIONAL INFORMATION SHALL BE INCLUDED IN AN**
5 **APPLICATION FOR RELIEF FROM THE PROHIBITION:**

6 **(I) A COPY OF ALL PLEADINGS, AFFIDAVITS, AND**
7 **CERTIFICATES SUBMITTED INTO EVIDENCE AT THE GUARDIANSHIP**
8 **PROCEEDING; AND**

9 **(II) ALL ORDERS ISSUED BY THE COURT RELATING TO THE**
10 **GUARDIANSHIP, INCLUDING, IF APPLICABLE, AN ORDER INDICATING THAT THE**
11 **GUARDIANSHIP IS NO LONGER IN EFFECT.**

12 **(5) IF THE APPLICANT IS PROHIBITED FROM FIREARM**
13 **OWNERSHIP UNDER § 5-133(B)(6) OR (7) OF THIS SUBTITLE OR BECAUSE OF A**
14 **FINDING MADE UNDER § 3-106 OF THE CRIMINAL PROCEDURE ARTICLE, THE**
15 **CERTIFICATE REQUIRED UNDER PARAGRAPH (2)(II) OF THIS SUBSECTION**
16 **SHALL ALSO INCLUDE:**

17 **(I) AN OPINION AS TO WHETHER THE APPLICANT HAS**
18 **SYMPTOMS OF A MENTAL DISORDER OR DEVELOPMENTAL DISABILITY THAT**
19 **CAUSE THE APPLICANT TO BE A DANGER TO SELF OR OTHERS;**

20 **(II) IF THE APPLICANT HAS NO SYMPTOMS THAT CAUSE THE**
21 **APPLICANT TO BE A DANGER, HOW MANY MONTHS THE APPLICANT HAS NOT HAD**
22 **SYMPTOMS OF A MENTAL DISORDER OR DEVELOPMENTAL DISABILITY THAT**
23 **CAUSED THE APPLICANT TO BE A DANGER TO SELF OR OTHERS;**

24 **(III) THE TIME PERIOD THE APPLICANT HAS BEEN**
25 **COMPLIANT WITH TREATMENT RECOMMENDATIONS FOR THE INDIVIDUAL'S**
26 **MENTAL ILLNESS;**

27 **(IV) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF ALL**
28 **MENTAL HEALTH PROVIDERS OR SERVICE PROVIDERS SEEN WITHIN THE LAST**
29 **12 MONTHS;**

30 **(V) IF THE APPLICANT WAS FOUND NOT GUILTY BY REASON**
31 **OF INSANITY OR NOT CRIMINALLY RESPONSIBLE, A STATEMENT ATTESTING TO**
32 **WHETHER THE APPLICANT IS ON CONDITIONAL RELEASE UNDER § 3-114 OF THE**
33 **CRIMINAL PROCEDURE ARTICLE; AND**

1 **(VI) IF THE APPLICANT WAS FOUND NOT COMPETENT TO**
2 **STAND TRIAL AND DANGEROUS, A WRITTEN STATEMENT REGARDING THE**
3 **STATUS OF THE RELATED CRIMINAL CHARGE.**

4 **(E) THE HEALTH DEPARTMENT MAY NOT APPROVE AN APPLICATION**
5 **UNDER THIS SECTION IF A DETERMINATION IS MADE THAT:**

6 **(1) THE APPLICANT SUPPLIED FALSE INFORMATION OR MADE A**
7 **FALSE STATEMENT;**

8 **(2) THE APPLICATION IS NOT PROPERLY COMPLETED; OR**

9 **(3) ON REVIEW OF THE APPLICATION AND SUPPORTING**
10 **DOCUMENTATION AND ANY OTHER INFORMATION RELATING TO THE**
11 **APPLICATION REQUESTED BY THE HEALTH DEPARTMENT, THE APPLICANT HAS**
12 **NOT SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT THE APPLICANT WILL**
13 **BE UNLIKELY TO ACT IN A MANNER DANGEROUS TO SELF OR PUBLIC SAFETY**
14 **AND THAT GRANTING A PERMIT TO POSSESS A REGULATED FIREARM WOULD**
15 **NOT BE CONTRARY TO THE PUBLIC INTEREST.**

16 **(F) (1) IF THE HEALTH DEPARTMENT DETERMINES THAT THE**
17 **APPLICATION SHALL BE APPROVED ON REVIEW UNDER SUBSECTION (E)(3) OF**
18 **THIS SECTION, THE HEALTH DEPARTMENT SHALL PROVIDE THE APPLICANT A**
19 **CERTIFICATE AFFIRMING THE APPLICANT'S MENTAL COMPETENCE TO POSSESS**
20 **A REGULATED FIREARM.**

21 **(2) A CERTIFICATE UNDER THIS SUBSECTION SHALL BE**
22 **PRESENTED TO THE DEPARTMENT OF STATE POLICE AS EVIDENCE OF THE**
23 **APPLICANT'S ELIGIBILITY TO POSSESS A REGULATED FIREARM.**

24 **(G) AN APPLICANT WHO IS AGGRIEVED BY THE ACTION OF THE HEALTH**
25 **DEPARTMENT MAY REQUEST A HEARING BY WRITING TO THE SECRETARY OF**
26 **HEALTH AND MENTAL HYGIENE WITHIN 30 DAYS AFTER THE HEALTH**
27 **DEPARTMENT MAILES THE DECISION TO THE APPLICANT.**

28 **(H) THE HEARING SHALL BE HELD IN ACCORDANCE WITH TITLE 10,**
29 **SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE WITHIN 60 DAYS AFTER THE**
30 **HEALTH DEPARTMENT RECEIVES THE REQUEST.**

31 **(I) IF THE APPLICANT REQUESTS A HEARING, THE ADMINISTRATIVE**
32 **LAW JUDGE SHALL CONDUCT A HEARING AT WHICH THE APPLICANT MAY**
33 **TESTIFY AND PROVIDE OTHER EVIDENCE.**

1 **(J) AT A HEARING, THE APPLICANT IS REQUIRED TO PROVIDE**
2 **EVIDENCE THAT:**

3 **(1) THE APPLICANT DOES NOT HAVE SYMPTOMS OF A MENTAL**
4 **DISORDER THAT WOULD CAUSE THE APPLICANT TO BE A DANGER TO SELF OR**
5 **OTHERS AND HAS NOT HAD SYMPTOMS OF A MENTAL DISORDER FOR AT LEAST 6**
6 **MONTHS;**

7 **(2) THE APPLICANT DOES NOT HAVE A MENTAL DISORDER OR**
8 **MENTAL HEALTH CONDITION THAT PREVENTS THE APPLICANT FROM**
9 **UNDERSTANDING THE RULES, REGULATIONS, AND LAWS GOVERNING FIREARM**
10 **OWNERSHIP AND POSSESSION OR THE RESPONSIBILITIES AND RISKS INVOLVED**
11 **IN FIREARM OWNERSHIP AND POSSESSION;**

12 **(3) THE APPLICANT IS NOT LIKELY TO ACT IN A MANNER**
13 **DANGEROUS TO PUBLIC SAFETY;**

14 **(4) GRANTING RELIEF WOULD NOT BE CONTRARY TO PUBLIC**
15 **INTEREST; AND**

16 **(5) THE APPLICANT IS NOT OTHERWISE PROHIBITED FROM**
17 **OWNING OR POSSESSING A FIREARM.**

18 **(K) AT A HEARING UNDER THIS SECTION, THE HEALTH DEPARTMENT IS**
19 **A PARTY AND SHALL PROVIDE EVIDENCE REGARDING:**

20 **(1) THE CIRCUMSTANCES UNDER WHICH THE FIREARMS**
21 **PROHIBITION WAS IMPOSED UNDER STATE OR FEDERAL LAW; AND**

22 **(2) THE APPLICANT'S RECORD, INCLUDING THE APPLICANT'S**
23 **MENTAL HEALTH AND CRIMINAL HISTORY RECORDS.**

24 **(L) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT THE APPLICANT**
25 **HAS MET, BY CLEAR AND CONVINCING EVIDENCE, THE STANDARDS OF**
26 **SUBSECTION (J) OF THIS SECTION, THE ADMINISTRATIVE LAW JUDGE SHALL:**

27 **(1) ISSUE A WRITTEN DETERMINATION THAT THE APPLICANT IS**
28 **RELIEVED FROM THE FIREARMS DISQUALIFICATION; AND**

29 **(2) PROVIDE TO THE CRIMINAL JUSTICE INFORMATION SYSTEM**
30 **CENTRAL REPOSITORY:**

1 **(I) THE NAME AND IDENTIFYING INFORMATION OF THE**
2 **APPLICANT; AND**

3 **(II) THE DATE OF THE DETERMINATION.**

4 **(M) AN APPLICANT OR THE HEALTH DEPARTMENT MAY SEEK JUDICIAL**
5 **REVIEW OF A DETERMINATION OF THE ADMINISTRATIVE LAW JUDGE ON AN**
6 **APPLICATION UNDER THIS SECTION FOR RELIEF FROM A FIREARMS**
7 **PROHIBITION IN ACCORDANCE WITH §§ 10-222 AND 10-223 OF THE STATE**
8 **GOVERNMENT ARTICLE.**

9 **(N) AFTER A DETERMINATION ON THE MERITS OF A HEARING**
10 **REQUESTED UNDER THIS SECTION, AN APPLICANT MAY NOT REQUEST A**
11 **SUBSEQUENT HEARING WITHIN 1 YEAR AFTER THE COMPLETION OF THE**
12 **HEARING PROCESS AND ANY JUDICIAL REVIEW OF THE ADMINISTRATIVE**
13 **DECISION.**

14 **(O) THE HEALTH DEPARTMENT SHALL ENTER INTO A MEMORANDUM**
15 **OF UNDERSTANDING WITH THE DEPARTMENT OF STATE POLICE TO ASSIST IN**
16 **CLINICAL CONSULTATION AND IMPLEMENTATION OF THIS SECTION.**

17 **(P) INFORMATION COLLECTED BY THE HEALTH DEPARTMENT UNDER**
18 **THIS SECTION IS NOT SUBJECT TO PUBLIC INSPECTION UNDER THE MARYLAND**
19 **PUBLIC INFORMATION ACT.**

20 5-134.

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

24 (9) has been confined for more than [30 consecutive days] **1 DAY** to a
25 facility as defined in § 10-101 of the Health – General Article, unless the purchaser,
26 lessee, or transferee possesses a physician’s certificate that the recipient is capable of
27 possessing a regulated firearm without undue danger to the purchaser, lessee, or
28 transferee or to another;

29 5-205.

30 (a) Unless the person possesses a physician’s certificate that the person is
31 capable of possessing a rifle or shotgun without undue danger to the person or to
32 another, a person may not possess a rifle or shotgun if the person:

33 (2) has been confined for more than [30 consecutive days] **1 DAY** in a
34 facility as defined in § 10-101 of the Health – General Article.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2013.