

# HOUSE BILL 857

E2

5lr2005  
CF SB 530

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By: **Delegates Dumais and Rosenberg**

Introduced and read first time: February 13, 2015

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Firearms – Transfer**

3 FOR the purpose of requiring a court to inform a person convicted of a certain offense that  
4 the person is prohibited from possessing a firearm under certain provisions of law;  
5 providing that if a person commits a certain offense and the offense is a domestically  
6 related crime, the court shall order the person to transfer all firearms owned by the  
7 person or in the person's possession; providing for the procedure to transfer certain  
8 firearms; requiring a person who is subject to a certain order to file certain proof with  
9 the court or attest certain facts to the court; authorizing the disposal of a certain  
10 firearm under certain circumstances; defining a certain term; and generally relating  
11 to firearms and domestically related crimes.

12 BY repealing and reenacting, without amendments,  
13 Article – Criminal Procedure  
14 Section 6–233  
15 Annotated Code of Maryland  
16 (2008 Replacement Volume and 2014 Supplement)

17 BY adding to  
18 Article – Criminal Procedure  
19 Section 6–234  
20 Annotated Code of Maryland  
21 (2008 Replacement Volume and 2014 Supplement)

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

24 **Article – Criminal Procedure**

25 6–233.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (a) In this section, “domestically related crime” means a crime committed by a  
2 defendant against a victim who is a person eligible for relief, as defined in § 4–501 of the  
3 Family Law Article, or who had a sexual relationship with the defendant within 12 months  
4 before the commission of the crime.

5 (b) (1) If a defendant is convicted of or receives a probation before judgment  
6 disposition for a crime, on request of the State’s Attorney, the court shall make a finding of  
7 fact, based on evidence produced at trial, as to whether the crime is a domestically related  
8 crime.

9 (2) The State has the burden of proving by a preponderance of the evidence  
10 that the crime is a domestically related crime.

11 (c) If the court finds that the crime is a domestically related crime under  
12 subsection (b) of this section, that finding shall become part of the court record for purposes  
13 of reporting to the Criminal Justice Information System Central Repository under §  
14 10–215 of this article.

15 **6–234.**

16 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
17 INDICATED.

18 (2) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 5–101 OF  
19 THE PUBLIC SAFETY ARTICLE.

20 (3) “DOMESTICALLY RELATED CRIME” HAS THE MEANING STATED IN  
21 § 6–233 OF THIS SUBTITLE.

22 (B) THE COURT SHALL INFORM A PERSON CONVICTED OF A CRIME OF  
23 VIOLENCE THAT THE PERSON IS PROHIBITED FROM POSSESSING FIREARMS UNDER  
24 §§ 5–133 AND 5–206 OF THE PUBLIC SAFETY ARTICLE.

25 (C) (1) IF A PERSON IS CONVICTED OF A CRIME OF VIOLENCE THAT IS A  
26 DOMESTICALLY RELATED CRIME PUNISHABLE AS A MISDEMEANOR, THE COURT  
27 SHALL ORDER THE PERSON TO TRANSFER ALL FIREARMS OWNED BY THE PERSON  
28 OR IN THE PERSON’S POSSESSION.

29 (2) A TRANSFER OF A FIREARM UNDER THIS SUBSECTION SHALL BE  
30 MADE WITHIN 24 HOURS OF THE CONVICTION TO A STATE OR LOCAL LAW  
31 ENFORCEMENT OFFICIAL OR TO A FEDERALLY LICENSED FIREARMS DEALER.

32 (3) A LAW ENFORCEMENT OFFICIAL OR DEALER ACCEPTING A  
33 TRANSFERRED FIREARM UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL ISSUE  
34 A PROOF OF TRANSFER TO THE PERSON TRANSFERRING THE FIREARM.

1           **(4) A PROOF OF TRANSFER DESCRIBED IN PARAGRAPH (3) OF THIS**  
2 **SUBSECTION SHALL INCLUDE:**

3                   **(I) THE NAME OF THE PERSON TRANSFERRING THE FIREARM;**

4                   **(II) THE DATE THE FIREARM WAS TRANSFERRED; AND**

5                   **(III) THE SERIAL NUMBER, MAKE, AND MODEL OF THE FIREARM.**

6           **(D) WITHIN 48 HOURS OF BEING ORDERED TO TRANSFER A FIREARM UNDER**  
7 **SUBSECTION (C) OF THIS SECTION, A PERSON SHALL:**

8                   **(1) FILE A COPY OF PROOF OF TRANSFER WITH THE COURT AND**  
9 **ATTEST THAT ALL FIREARMS OWNED BY THE PERSON OR IN THE PERSON'S**  
10 **POSSESSION HAVE BEEN TRANSFERRED AND THAT THE PERSON DOES NOT OWN OR**  
11 **POSSESS ANY OTHER FIREARMS; OR**

12                   **(2) ATTEST TO THE COURT THAT THE PERSON DOES NOT OWN OR**  
13 **POSSESS A FIREARM AND DID NOT OWN OR POSSESS A FIREARM AT THE TIME OF THE**  
14 **ORDER.**

15           **(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IF A PERSON**  
16 **TRANSFERS A FIREARM TO A LAW ENFORCEMENT AGENCY UNDER THIS SECTION,**  
17 **THE AGENCY MAY DISPOSE OF THE FIREARM.**

18                   **(2) A LAW ENFORCEMENT AGENCY MAY NOT DISPOSE OF A FIREARM**  
19 **UNDER THIS SUBSECTION UNLESS:**

20                   **(I) THE LAW ENFORCEMENT AGENCY NOTIFIES THE PERSON**  
21 **WHO TRANSFERRED THE FIREARM OF THE DISPOSAL; AND**

22                   **(II) THE LAW ENFORCEMENT AGENCY REMITS TO THE PERSON**  
23 **WHO TRANSFERRED THE FIREARM ANY FUNDS RECEIVED FROM THE DISPOSAL, LESS**  
24 **THE COST ASSOCIATED WITH TAKING POSSESSION, STORING, AND DISPOSING OF**  
25 **THE FIREARM.**

26           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
27 **October 1, 2015.**