

SENATE BILL 745

E1

3lr2104

By: **Senator Folden**

Introduced and read first time: February 6, 2023

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Wearing, Carrying, or Transporting Handgun – Penalties**
3 **(Gun Violence Accountability Act)**

4 FOR the purpose of altering certain penalties for certain violations involving the wearing,
5 carrying, or transporting of a handgun on or about the person; repealing certain
6 exceptions for certain minimum sentencing requirements for a first violation
7 involving the wearing, carrying, or transporting of a handgun on or about the person;
8 and generally relating to the crime of wearing, carrying, or transporting a handgun.

9 BY repealing and reenacting, without amendments,
10 Article – Criminal Law
11 Section 4–203(a)
12 Annotated Code of Maryland
13 (2021 Replacement Volume and 2022 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Criminal Law
16 Section 4–203(c) and 4–205
17 Annotated Code of Maryland
18 (2021 Replacement Volume and 2022 Supplement)

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

Article – Criminal Law

22 4–203.

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

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

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

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

16 (2) If the person has not previously been convicted under this section, §
17 4-204 of this subtitle, or § 4-101 or § 4-102 of this title:

18 (i) except as provided in item (ii) of this paragraph, the person is
19 subject to imprisonment for not less than 30 days and not exceeding [3] 5 years [or] AND
20 a fine of not less than \$250 and not exceeding [\$2,500 or both] **\$10,000**; or

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

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

25 1. except as provided in item 2 of this subparagraph, the
26 person is subject to imprisonment for not less than 1 year and not exceeding 10 years AND
27 **A FINE OF NOT LESS THAN \$250 AND NOT EXCEEDING \$10,000**; or

28 2. if the person violates subsection (a)(1)(iii) of this section,
29 the person is subject to imprisonment for not less than 3 years and not exceeding 10 years
30 **AND A FINE OF NOT LESS THAN \$250 AND NOT EXCEEDING \$10,000**.

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

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

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

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

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

14 1. except as provided in item 2 of this subparagraph, the
15 person is subject to imprisonment for not less than 3 years and not exceeding 10 years **AND**
16 **A FINE OF NOT LESS THAN \$250 AND NOT EXCEEDING \$10,000;** or

17 2. A. if the person violates subsection (a)(1)(iii) of this
18 section, the person is subject to imprisonment for not less than 5 years and not exceeding
19 10 years **AND A FINE OF NOT LESS THAN \$250 AND NOT EXCEEDING \$10,000;** or

20 B. if the person violates subsection (a)(1)(iv) of this section,
21 the person is subject to imprisonment for not less than 5 years and not exceeding 10 years
22 **AND A FINE OF NOT LESS THAN \$250 AND NOT EXCEEDING \$10,000.**

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

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

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

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

1 (a) Notwithstanding § 14–102 of this article or any other provision of law[, except
2 with respect to a sentence prescribed in § 4–203(c)(2) of this subtitle,] a court may not:

3 (1) enter a judgment for less than the mandatory minimum sentence
4 prescribed in § 4–203 or § 4–204 of this subtitle in a case in which a mandatory minimum
5 sentence is specified under § 4–203 or § 4–204 of this subtitle; or

6 (2) suspend a mandatory minimum sentence prescribed in § 4–203 or §
7 4–204 of this subtitle.

8 (b) Notwithstanding § 14–102 of this article or any other provision of law:

9 (1) [except with respect to a sentence prescribed in § 4–203(c)(2) of this
10 subtitle for wearing, carrying, or transporting a handgun other than on public school
11 property,] a court may not order probation before judgment in a case arising under this
12 subtitle; and

13 (2) [except with respect to a sentence prescribed in § 4–203(c)(2) of this
14 subtitle,] a court may not order probation with respect to a case arising under § 4–203 or §
15 4–204 of this subtitle that would have the effect of reducing the actual period of
16 imprisonment prescribed in § 4–203 or § 4–204 of this subtitle as a mandatory minimum
17 sentence.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2023.