

*Department of Justice***Firearms Enforcement in America:  
Increased Coordination and More Prosecutions**

- **Crime is down.** In the past six years, there has been an historic reduction in crime in America. Violent crimes committed with guns – including homicides, robberies and aggravated assaults – fell by 27% between 1992 and 1997, and the nation's violent crime rate has dropped by nearly 20% during the same period. Preliminary figures from the FBI's Uniform Crime Report show that in 1998 serious crime dropped for the seventh straight year. The streets of America are safer than they have been in over three decades.
- **We've kept guns out of the hands of criminals.** The Brady Law has stopped more than 400,000 felons, fugitives, and other prohibited people from getting guns, preventing untold crimes and violence. Under the Brady Law's National Instant Check System (NICS) the vast majority of the background checks are completed within minutes.
- **Firearms prosecutions are up.** Since 1993, funding for state and local law enforcement has increased by nearly 300% – due in large part to the resources provided in the 1994 Crime Bill. Federal, state and local law enforcement authorities are now working more closely than ever to combat gun violence through comprehensive strategies.
  - ▶ Nationally, firearms convictions are up dramatically and, in 1996, 22% more criminals were incarcerated for either state or federal weapons offenses than in 1992 (from 20,681 to 25,186).
  - ▶ The number of federal prosecutions of high-level firearms offenders (those sentenced to 5 or more years) is up by more than 25 % since 1992 (from 1,049 to 1,345).
- **Despite the good news, reducing gun violence remains a top priority.** Although violent crime is down, tragedies like the shootings in Littleton, Colorado, and Conyers, Georgia – and the fact that 13 young people in America die every day from gunshot wounds – remind us that we must do more to reduce firearms violence even further. We must build upon our success in reducing crime to provide greater protection for our children and all of our citizens. This requires keeping guns out of the hands of criminals and children, and enforcing the law effectively when gun crimes are committed.
- **We're working together.** The Clinton Administration's firearms enforcement strategy has two main parts. First, we have committed substantial federal resources to both prevent access to firearms by prohibited persons and incarcerate violent gun offenders. Second, we have forged partnerships with state and local authorities, who make the vast majority of arrests and undertake the vast majority of prosecutions.

- ▶ These partnerships are effective and make sense. They allow each community to identify their unique firearm and other violent crime problems and implement the strategies that are most likely to have a positive impact on these local problems.
  - ▶ They also build on the reality that state and local law enforcement have responsibility for combating the vast majority of violent crime in our country, and have the lion's share of the resources to do so.
  - ▶ Efforts not based on this coordination -- like efforts to require wholesale federalization of firearms offenses by bringing all cases into the federal system -- will shift cases that can be handled effectively at the local and state level to the federal level. This will prevent federal law enforcement officials from targeting their resources effectively to investigate and prosecute uniquely federal crimes such as interstate gun trafficking and gang violence.
  - ▶ It has long been recognized that federal violent crime resources need to be used against those offenders who do the most damage. As the Bush Administration's Project Triggerlock said it, federal firearms enforcement should not be used to "compete with or supplant" local efforts, but should "target the most dangerous violent criminals in the community."
- **Results speak for themselves.** The increased collaboration among federal, state, and local law enforcement has resulted in: (1) a more efficient distribution of prosecutorial responsibilities, (2) a steady increase in total firearms prosecutions and, most importantly, (3) a sharp decline in the number of violent crimes committed with guns.
- ▶ By closely cooperating with state and local law enforcement, ATF has been able to trace 200,000 crime guns annually, and provide information about potential traffickers to state and local police and prosecutors.
  - ▶ Coordinated law enforcement efforts in Boston, Massachusetts, Richmond, Virginia, and elsewhere, involving all levels of law enforcement and community leaders, have produced very dramatic drops in the cities' violent crime rates.
  - ▶ We are building on these and other successful strategies by developing a coordinated firearms violence reduction strategy in response to President Clinton's Directive of March 1999. The strategy will draw on the proven measures and other innovative approaches being demonstrated by communities throughout the country.



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Total Pages (excluding this cover): 2

**Additional Message:**

PLEASE DELIVER IMMEDIATELY. THANKS.

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| Citation                  | Rank(R)  | Database | Mode |
| AL ST s 13A-11-81         | R 1 OF 1 | AL-ST    | Page |
| Ala.Code 1975 s 13A-11-81 |          |          |      |

CODE OF ALABAMA  
TITLE 13A. CRIMINAL CODE.  
CHAPTER 11. OFFENSES AGAINST ORDER AND SAFETY.  
ARTICLE 3. OFFENSES RELATING TO FIREARMS AND WEAPONS.  
DIVISION 2. PISTOLS.  
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Current through End of 1998 Reg. Sess.

s 13A-11-81. False information in applications for licenses, purchases, etc.

No person shall, in purchasing or otherwise securing delivery of a pistol or in applying for a license to carry the same, give false information or offer false evidence of his identity.

(Acts 1936, Ex. Sess., No. 82, p. 51; Code 1940, T. 14, s 183; Acts 1951, No. 784, p. 1378; Code 1975, s 13-6-161.)

Ala. Code 1975 s 13A-11-81

AL ST s 13A-11-81

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DISTRICT OF COLUMBIA CODE 1981  
PART I. GOVERNMENT OF DISTRICT.  
TITLE 6. HEALTH AND SAFETY.  
CHAPTER 23. Firearms Control.

Subchapter VII. Miscellaneous Provisions.

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Current through End of 1997-1998 District Council Session

s 6-2374 False information; forgery or alteration.

(a) It shall be unlawful for any person purchasing any firearm or ammunition, or applying for any registration certificate or dealer's license under this chapter, or in giving any information pursuant to the requirements of this chapter, to knowingly give false information or offer false evidence of identity.

(b) It shall be unlawful for anyone to forge or alter any application, registration certificate, or dealer's license submitted, retained or issued under this chapter.

(1973 Ed., s 6-1874; Sept. 24, 1976, D.C. Law 1-85, title VII, s 704, 23 DCR 2464.)

D.C. CODE 1981 s 6-2374

DC ST s 6-2374

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This document has been amended. Use UPDATE.  
See SCOPE for more information.

**WEST'S FLORIDA STATUTES ANNOTATED**  
**TITLE XLVI. CRIMES**  
**CHAPTER 790. WEAPONS AND FIREARMS**

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Current through End of 1998 2nd Reg. Sess.

**790.065. Sale and delivery of firearms**

(1) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

(a) Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

(b) Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be \$8. The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than \$2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

(c) Requested, by means of a toll-free telephone call, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

(d) Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to the provisions of s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), the provisions of this subsection do not apply.

(2) Upon receipt of a request for a criminal history record check, the Department of Law

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Enforcement shall, during the licensee's call or by return call, forthwith:

(a) Review criminal history records to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;
2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm; or
3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred.

(b) Inform the licensee making the inquiry either that records demonstrate that the buyer or transferee is so prohibited and provide the licensee a nonapproval number, or provide the licensee with a unique approval number.

(c)1. Review any records available to it to determine whether the potential buyer or transferee has been indicted or has had an information filed against her or him for an offense that is a felony under either state or federal law, or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30, has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046, or has been arrested for a dangerous crime as specified in s. 907.041(4)(a) or for any of the following enumerated offenses:

- a. Criminal anarchy under ss. 876.01 and 876.02.
- b. Extortion under s. 836.05.
- c. Explosives violations under s. 552.22(1) and (2).
- d. Controlled substances violations under chapter 893.
- e. Resisting an officer with violence under s. 843.01.
- f. Weapons and firearms violations under this chapter.
- g. Treason under s. 876.32.
- h. Assisting self-murder under s. 782.08.
- i. Sabotage under s. 876.38.
- j. Stalking or aggravated stalking under s. 784.048.

If the review indicates any such indictment, information, or arrest, the department shall provide to the licensee a conditional nonapproval number.

2. Within 24 working hours, the department shall determine the disposition of the indictment, information, or arrest and inform the licensee as to whether the potential buyer is prohibited from receiving or possessing a firearm. For purposes of this paragraph, "working hours" means the hours from 8 a.m. to 5 p.m. Monday through Friday, excluding legal holidays.

3. The office of the clerk of court, at no charge to the department, shall respond to any department request for data on the disposition of the indictment, information, or arrest as soon as possible, but in no event later than 8 working hours.

4. The department shall determine as quickly as possible within the allotted time period whether the potential buyer is prohibited from receiving or possessing a firearm.

5. If the potential buyer is not so prohibited, or if the department cannot determine the disposition information within the allotted time period, the department shall provide the licensee with a conditional approval number.

6. If the buyer is so prohibited, the conditional nonapproval number shall become a nonapproval number.

7. The department shall continue its attempts to obtain the disposition information and may retain a record of all approval numbers granted without sufficient disposition information. If the department later obtains disposition information which indicates:

a. That the potential buyer is not prohibited from owning a firearm, it shall treat the record of the transaction in accordance with this section; or

b. That the potential buyer is prohibited from owning a firearm, it shall immediately revoke the conditional approval number and notify local law enforcement.

8. During the time that disposition of the indictment, information, or arrest is pending and until the department is notified by the potential buyer that there has been a final disposition of the indictment, information, or arrest, the conditional nonapproval number shall remain in effect.

(3) In the event of scheduled computer downtime, electronic failure, or similar emergency beyond the control of the Department of Law Enforcement, the department shall immediately notify the licensee of the reason for, and estimated length of, such delay. After such notification, the department shall forthwith, and in no event later than the end of the next business day of the licensee, either inform the requesting licensee if its records demonstrate that the buyer or transferee is prohibited from receipt or possession of a firearm pursuant to Florida and Federal law or provide the licensee with a unique approval number. Unless notified by the end of said next business day that the buyer or transferee is so prohibited, and without regard to whether she or he has received a unique approval number, the licensee may complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer.

(4)(a) Any records containing any of the information set forth in subsection (1) pertaining to a buyer or transferee who is not found to be prohibited from receipt or transfer of a firearm by reason of Florida and federal law which records are created by the Department of Law Enforcement to conduct the criminal history record check shall be confidential and exempt from the provisions of s. 119.07(1) and may not be disclosed by the Department of Law Enforcement or any officer or employee thereof to any person or to another agency. The Department of Law Enforcement shall destroy any such records forthwith after it communicates the approval and nonapproval numbers to the licensee and, in any event, such records shall be destroyed within 48 hours after the day of the response to the licensee's request.

(b) Notwithstanding the provisions of this subsection, the Department of Law Enforcement may maintain records of NCIC transactions to the extent required by the Federal Government, and may maintain a log of dates of requests for criminal history records checks, unique approval and nonapproval numbers, license identification numbers, and transaction numbers corresponding to

such dates for a period of not longer than 2 years or as otherwise required by law.

(c) Nothing in this chapter shall be construed to allow the State of Florida to maintain records containing the names of purchasers or transferees who receive unique approval numbers or to maintain records of firearm transactions.

(d) Any officer or employee, or former officer or employee of the Department of Law Enforcement or law enforcement agency who intentionally and maliciously violates the provisions of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(5) The Department of Law Enforcement shall establish a toll-free telephone number which shall be operational 7 days a week with the exception of Christmas Day and New Year's Day, for a period of 12 hours a day beginning at 9 a.m. and ending at 9 p.m., for purposes of responding to inquiries as described in this section from licensed manufacturers, licensed importers, and licensed dealers. The Department of Law Enforcement shall employ and train such personnel as are necessary expeditiously to administer the provisions of this section.

(6) Any person who is denied the right to receive or purchase a firearm as a result of the procedures established by this section may request a criminal history records review and correction in accordance with the rules promulgated by the Department of Law Enforcement.

(7) It shall be unlawful for any licensed dealer, licensed manufacturer, or licensed importer willfully and intentionally to request criminal history record information under false pretenses, or willfully and intentionally to disseminate criminal history record information to any person other than the subject of such information. Any person convicted of a violation of this subsection commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(8) The Department of Law Enforcement shall promulgate regulations to ensure the identity, confidentiality, and security of all records and data provided pursuant to this section.

(9) This section shall become effective at such time as the Department of Law Enforcement has notified all licensed importers, licensed manufacturers, and licensed dealers in writing that the procedures and toll-free number described in this section are operational. This section shall remain in effect only during such times as the procedures described in subsection (2) remain operational.

(10) A licensed importer, licensed manufacturer, or licensed dealer is not required to comply with the requirements of this section in the event of:

(a) Unavailability of telephone service at the licensed premises due to the failure of the entity which provides telephone service in the state, region, or other geographical area in which the licensee is located to provide telephone service to the premises of the licensee due to the location of said premises; or the interruption of telephone service by reason of hurricane, tornado, flood, natural disaster, or other act of God, war, invasion, insurrection, riot, or other bona fide emergency, or other reason beyond the control of the licensee; or

(b) Failure of the Department of Law Enforcement to comply with the requirements of subsections (2) and (3).

(11) Compliance with the provisions of this chapter shall be a complete defense to any claim or cause of action under the laws of any state for liability for damages arising from the importation or manufacture, or the subsequent sale or transfer to any person who has been convicted in any court of a crime punishable by imprisonment for a term exceeding 1 year, of any firearm which has been shipped or transported in interstate or foreign commerce. The Department of Law Enforcement, its

agents and employees shall not be liable for any claim or cause of action under the laws of any state for liability for damages arising from its actions in lawful compliance with this section.

(12)(a) Any potential buyer or transferee who willfully and knowingly provides false information or false or fraudulent identification commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(b) Any licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(c) Any employee or agency of a licensed importer, licensed manufacturer, or licensed dealer who violates the provisions of subsection (1) commits a felony of the third degree punishable as provided in s. 775.082 or s. 775.083.

(d) Any person who knowingly acquires a firearm through purchase or transfer intended for the use of a person who is prohibited by state or federal law from possessing or receiving a firearm commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(13) This section does not apply to employees of sheriff's offices, municipal police departments, correctional facilities or agencies, or other criminal justice or governmental agencies when the purchases or transfers are made on behalf of an employing agency for official law enforcement purposes.

#### CREDIT(S)

##### 1999 Electronic Update

Amended by Laws 1992, c. 92-183, § 4, eff. April 9, 1992; Laws 1993, c. 93-197, § 1; Laws 1994, c. 94-256, § 1, eff. Oct. 1, 1994; Laws 1995, c. 95-195, § 14, eff. July 1, 1995; Laws 1995, c. 95-430, § 8, eff. July 1, 1995; Laws 1996, c. 96-392, § 7, eff. July 1, 1996; Laws 1996, c. 96-406, § 429, eff. July 3, 1996; Laws 1997, c. 97-94, § 29, eff. July 1, 1997; Laws 1997, c. 97-102, § 1816, eff. July 1, 1997; Laws 1998, c. 98-284, § 6, eff. July 1, 1998.

#### REPEAL

< Laws 1993, c. 93-197, § 1, provides, in part, for the repeal of this section effective Oct. 1, 1999. >

#### EXPIRATION

< Laws 1989, c. 89-191, § 1, adding this section, provided in subsec. (13): >

< "This section expires on the effective date of federal law which provides access to national criminal history information and requires national criminal history checks on potential buyers or transferees on firearms." >

#### HISTORICAL AND STATUTORY NOTES

##### 1999 Electronic Update

Laws 1992, c. 92-183, § 4, eff. April 9, 1992, in subsec. (1), made a fee increase from \$3 to \$5 in the second sentence of par. (b), and added the concluding sentence following par. (d); rewrote par. (a) of subsec. (2), which prior thereto read:

"(a) Review criminal history records to determine if the potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to Florida and Federal law."

in the first sentence of subsec. (5), inserted the exception of Christmas Day and New Year's Day, and changed the number of daily hours from "16" to "12", beginning at 9 a.m. and ending at 9 p.m.; and made no changes in pars. (b) and (c) of subsec. (12).

Laws 1993, c. 93-197, § 1, rewrote par. (b) of subsec. (1); and provided for repeal of this section on Oct. 1, 1999.

Laws 1993, c. 93-197, provided therein that the law take effect May 1, 1993; however, it became law without the Governor's approval May 7, 1993. The Florida Supreme Court in an advisory opinion to the governor of July 19, 1979 (374 So.2d 959) stated in part " \* \* \* the effective date provided in the bill is inoperative unless the bill becomes law on or before that date" and concludes that under such circumstances the provision of Const. Art. 3, § 9, that the law take effect on the sixtieth day after adjournment sine die of the session of the legislature in which enacted, is applicable.

Laws 1994, c. 94-256, § 1, eff. Oct. 1, 1994, reenacted and amended subsec. (4)(a) notwithstanding the repeal provided for in § 119.14(3)(a), and added thereto the third sentence.

Laws 1995, c. 95-195, § 14, eff. July 1, 1995, in subpar. 1. of subsec. (2)(c), inserted "or, as mandated by federal law, has had an injunction for protection against domestic violence entered against the potential buyer or transferee under s. 741.30 or s. 784.047,".

Laws 1995, c. 95-195, § 23, provides:

"This act shall take effect July 1, 1995, and shall apply to offenses committed on or after that date, except that section 19 and the amendment to section 741.30(6)(d), Florida Statutes, in section 5 shall take effect July 1, 1996."

Laws 1995, c. 95-430, § 8, eff. July 1, 1995, in subsec. (1)(b), designated subpar. 1. and inserted subpar. 2.

Laws 1996, c. 96-392, § 7, eff. July 1, 1996, in subsec. (2)(c)1., substituted ", has had an injunction for protection against repeat violence entered against the potential buyer or transferee under s. 784.046" for "or s. 784.047" following "s. 741.30", and substituted a reference to offenses for a reference to felonies in the introduction, and added sub-subpar. j., relating to stalking and aggravated stalking.

Laws 1996, c. 96-406 was a reviser's bill which deleted references to § 119.14 throughout Florida Statutes to conform to the repeal of § 119.14, the Open Government Sunset Review Act, by Laws 1995, c. 95-217, § 1.

Laws 1997, c. 97-94, § 29, eff. July 1, 1997, repealed subsec. (1)(b)2., which related to transfer of excess funds to the General Revenue Fund.

Laws 1997, c. 97-102, eff. July 1, 1997, removed gender-specific references applicable to human beings from volume 4 of the Florida Statutes without substantive changes in legal effect.

Laws 1998, c. 98-284, § 6, in subsec. (1), at the beginning, substituted "A" for "No"; in the first sentence, substituted "may not" for "shall"; in subsec. (2)(a), designated subpars. 1 and 3 and inserted subpar. 2; and, in subpar. 3, inserted "or misdemeanor crime of domestic violence".

## 1992 Main Volume

**Derivation:**

Laws 1990, c. 90-316, § 1.

Laws 1989, c. 89-191, § 1.

Laws 1990, c. 90-316, § 1, eff. Oct. 1, 1990, in subsec. (2), added par. (c); in subsec. (3) in the first sentence, inserted "scheduled computer down time"; in subsec. (4)(a) in the last sentence following "destroy any such records" deleted "with the exception of the approval and nonapproval numbers", following "communicates" inserted "the approval and nonapproval" and deleted "such" and substituted "response to" for "receipt of"; rewrote subsecs. (4)(b) and (4)(c), which formerly read:

"(b) Notwithstanding the provisions of this subsection, the Department of Law Enforcement may maintain a log of dates of requests for criminal history records checks and unique approval numbers corresponding to such dates for a period of not longer than 1 year.

"(c) Nothing in this chapter shall be construed to allow the State of Florida to maintain records containing the names of licensees who receive unique approval numbers or to maintain records of firearm transactions, including the names or other identification of licensees and purchasers, involving persons not prohibited by law from the receipt or possession of firearms.";

in subsec. (12)(a), following "transferee" deleted "is convicted of", and substituted "provides" for "providing"; in subsecs. (12)(b) and (12)(c), substituted "violates" for "is convicted of violating"; and added subsecs. (12)(d) and (13).

Laws 1990, c. 90-316, § 3, provides:

"This act shall not be construed to nullify the expiration of s. 790.065, Florida Statutes, provided for in chapter 89-191, Laws of Florida."

West's F. S. A. § 790.065

FL ST § 790.065

END OF DOCUMENT

**FLORIDA 1999 SESSION LAW SERVICE  
Sixteenth Legislature, First Regular Session**

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Additions are indicated by < < + Text + > > ; deletions by  
< < - Text - > > . Changes in tables are made but not highlighted.

Chapter 99-300  
H.B. No. 391

**DEPARTMENT OF LAW ENFORCEMENT--CRIMINAL HISTORY INFORMATION**

An act relating to the Department of Law Enforcement; creating s. 943.0543, F.S.; requiring that the department provide qualified entities that provide care, treatment, or other services for children, the elderly, or individuals with disabilities access to criminal history information; requiring compliance with certain federal laws; providing for fees; providing for the disclosure of criminal history records that are not exempt from disclosure under the public records law; requiring the department to establish a database of entities qualified to obtain criminal history information; providing certain exemptions from liability; providing rulemaking authority; creating s. 943.0543, F.S.; ratifying the National Crime Prevention and Privacy Compact; requiring that the executive director of the department administer the compact; creating s. 943.0544, F.S.; authorizing the department to develop and operate the Criminal Justice Network; providing for the department to regulate access to the network; authorizing the department to accept services in lieu of fees or other charges; authorizing the department to enter into agreements with private entities for the purpose of managing and disseminating criminal justice information; providing rulemaking authority; amending ss. 943.0585, 943.059, F.S., relating to the court-ordered expunction and sealing of criminal history records; providing that references to any chapter, section, or subdivision in the section constitute a general reference under the doctrine of incorporation by reference; clarifying certain requirements for a petition to expunge or seal a criminal history record; repealing s. 943.051(5), F.S., relating to the department's authority to contract with other agencies and private entities for the management and dissemination of criminal justice information; authorizing the Administration Commission to increase positions within the department following notice and public hearing; amending s. 790.065, F.S., relating to the sale and delivery of firearms; postponing the expiration of that section; providing for modification, or suspension of collection, of fees for criminal history checks; amending s. 943.053, F.S.; amending s. 943.053, F.S.; providing each office of the Public Defender on-line access to criminal records which are not exempt from disclosure and not confidential under law; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 943.0542, Florida Statutes, is created to read:

< < FL ST § 943.0542 > >

< < + 943.0542. Access to criminal history information provided by the department to qualified entities + > >

< < + (1) As used in this section, the term: + > >

< < + (a) "Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities. + > >

< < + (b) "Qualified entity" means a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care or care-placement services, including a business or organization that licenses or certifies others to provide care or care-placement services. + > >

< < + (2)(a) A qualified entity must register with the department before submitting a request for screening under this section. Each such request must be voluntary and conform to the requirements established in the National Child Protection Act of 1993, as amended. As a part of the registration, the qualified entity must agree to comply with state and federal law and must so indicate by signing an agreement approved by the department. The department may periodically audit qualified entities to ensure compliance with federal law and this section. + > >

< < + (b) A qualified entity shall submit to the department a request for screening an employee or volunteer or person applying to be an employee or volunteer on a completed fingerprint card, with a signed waiver allowing the release of state and national criminal history record information to the qualified entity. + > >

< < + (c) Each such request must be accompanied by a fee, which shall approximate the actual cost of producing the record information, as provided in s. 943.053, plus the amount required by the Federal Bureau of Investigation for the national criminal history check in compliance with the National Child Protection Act of 1993, as amended. + > >

< < + (d) Any current or prospective employee or volunteer who is subject to a request for screening must indicate to the qualified entity submitting the request the name and address of each qualified entity that has submitted a previous request for screening regarding that employee or volunteer. + > >

< < + (3) The department shall provide directly to the qualified entity the state criminal history records that are not exempt from disclosure under chapter 119 or otherwise confidential under law. A person who is the subject of a state criminal history record may challenge the record only as provided in s. 943.056. + > >

< < + (4) The national criminal history data is available to qualified entities to use only for the purpose of screening employees and volunteers or persons applying to be an employee or volunteer with a qualified entity. The department shall provide this national criminal history record information directly to the qualified entity as authorized by the written waiver required for submission of a request to the department. + > >

< < + (5) The determination whether the criminal history record shows that the employee or volunteer has been convicted of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children, the elderly, or disabled persons shall solely be made by the qualified entity. This section does not require the department to make such a determination on behalf of any qualified entity. + > >

< < + (6) The qualified entity must notify in writing the person of his or her right to obtain a copy of any background screening report, including the criminal history records, if any, contained in the report, and of the person's right to challenge the accuracy and completeness of any information contained in any such report and to obtain a determination as to the validity of such challenge before a final determination regarding the person is made by the qualified entity reviewing the criminal history information. A qualified entity that is required by law to apply screening criteria, including any right to contest or request an exemption from disqualification, shall apply such screening criteria to the state and national criminal history record information received from the department for those persons subject to the required screening. + > >

< < + (7) The department may establish a database of registered qualified entities and make this data available free of charge to all registered qualified entities. The database must include, at a minimum, the name, address, and phone number of each qualified entity. + > >

< < + (8) A qualified entity is not liable for damages solely for failing to obtain the information authorized under this section with respect to an employee or volunteer. The state, any political subdivision of the state, or any agency, officer, or employee of the state or a political subdivision is not liable for damages for providing the information requested under this section. + > >

< < + (9) The department has authority to adopt rules to implement this section. + > >

Section 2. Section 943.0543, Florida Statutes, is created to read:

< < FL ST § 943.0543 > >

< < + 943.0543. National Crime Prevention and Privacy Compact; ratification and implementation + > >

< < + (1) In order to facilitate the authorized interstate exchange of criminal history information for noncriminal justice purposes, including, but not limited to, background checks for the licensing and screening of employees and volunteers under the National Child Protection Act of 1993, as amended, and to implement the National Crime Prevention and Privacy Compact, 42 U.S.C. s. 14616, the Legislature approves and ratifies the compact. The executive director of the Department of Law Enforcement shall execute the compact on behalf of the state. + > >

< < + (2) The department is the repository of criminal history records for purposes of the compact and shall do all things necessary or incidental to carrying out the compact. + > >

< < + (3) The executive director of the department, or the director's designee, is the state's compact officer and shall administer the compact within the state. The department may adopt rules and establish procedures for the cooperative exchange of criminal history records between the state and Federal Government for use in noncriminal justice cases. + > >

< < + (4) The state's ratification of the compact remains in effect until legislation is enacted which specifically renounces the compact. + > >

< < + (5) This compact and this section do not affect or abridge the obligations and responsibilities of the department under other provisions of this chapter, including s. 943.053, and does not alter or amend the manner, direct or otherwise, in which the public is afforded access to criminal history records under state law. + > >

Section 3. Section 943.0544, Florida Statutes, is created to read:

< < FL ST § 943.0544 > >

< < + 943.0544. Criminal justice information network and information management + > >

< < + (1) The department may develop, implement, maintain, and manage innovative, progressive, and effective methods of serving the information-management needs of criminal justice agencies, and may take necessary steps to promote the efficient and cost-effective use of such information. + > >

< < + (2) The department may develop, implement, maintain, manage, and operate the Criminal

Justice Network, which shall be an intraagency information and data-sharing network for use by the state's criminal justice agencies. The department, in consultation with the Criminal and Juvenile Justice Information Systems Council, shall determine and regulate access to the Criminal Justice Network by the state's criminal justice agencies. + > >

< < + (3) In addition, the department may authorize entities that offer or provide a product, program, or service determined by the department to be of substantial value to the criminal justice information needs of the state's criminal justice agencies a special limited presence on the network under terms, conditions, and limitations established by the department after consultation with the Criminal and Juvenile Justice Information Systems Council. + > >

< < + (4) In carrying out its duties under this section, the department may enter into contracts; conduct pilot studies and projects; assess and collect fees, commissions, royalties, or other charges from entities approved for special presence on the Criminal Justice Network in consideration for such presence. The department may enter into agreements by which products, programs, or services of value to the department or the information needs of criminal justice agencies are provided in lieu of all or a part of a fee, commission, royalty, or charge that might otherwise be assessed by the department upon an entity granted special limited presence as provided in this subsection. + > >

< < + (5) The department may enter into an agreement with any entity to facilitate the department's responsibilities for receiving, maintaining, managing, processing, allowing access to, and disseminating criminal justice information, intelligence, data, or criminal history records and information, or to otherwise accomplish the duties and responsibilities related to information and records as defined in this chapter. The department may enter into agreements by which products, programs, or services of value to the department or the information needs of criminal justice agencies are provided in lieu of all or part of a fee, commission, royalty, or charge that might be otherwise assessed by the department upon an entity entering into an agreement with the department. Any entity under contract with the department to perform all or part of the department's information functions or duties shall, as specified in the contract, be performing such functions or duties as a criminal justice agency for purposes of handling, collecting, managing, or disseminating criminal justice information, intelligence, data, histories, and other records. Disclosure of such information to an entity under such a contract does not waive any confidentiality or exemption from disclosure under s. 119.07 or any other applicable law. + > >

< < + (6) The department may adopt rules to administer this section. Except as otherwise specified in this section, this section does not alter or limit the powers and duties of the department established under this chapter. + > >

Section 4. For the purpose of incorporating all amendments made prior to the effective date of this act to the chapters, sections, or subdivisions of Florida Statutes referenced in section 943.0585, Florida Statutes, 1998 Supplement, which amendments have not been incorporated by reference thereto, section 943.0585, Florida Statutes, 1998 Supplement, is reenacted and amended to read:

< < FL ST § 943.0585 > >

#### 943.0585. Court-ordered expunction of criminal history records

The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of this section.

The court shall not order a criminal justice agency to expunge a criminal history record until the person seeking to expunge a criminal history record has applied for and received a certificate of eligibility for expunction pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be expunged, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, the offense as a delinquent act. The court may only order expunction of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the expunction of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the expunction of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not expunge any record pertaining to such additional arrests if the order to expunge does not articulate the intention of the court to expunge a record pertaining to more than one arrest. This section does not prevent the court from ordering the expunction of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to expunction, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the expunction of any criminal history record, and any request for expunction of a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.--Each petition to a court to expunge a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for expunction issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never < < + , prior to the date on which the petition is filed, + > > < < - previously - > > been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such an expunction to the best of his or her knowledge or belief and does not have any other petition to expunge or any petition to seal pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior to petitioning the court to expunge a criminal history record, a person seeking to expunge a criminal history record shall apply to the department for a certificate of eligibility for expunction. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for expunction. The department shall issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

(a) Has obtained, and submitted to the department, a written, certified statement from the appropriate state attorney or statewide prosecutor which indicates:

1. That an indictment, information, or other charging document was not filed or issued in the case.
2. That an indictment, information, or other charging document, if filed or issued in the case, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court of competent jurisdiction.
3. That the criminal history record does not relate to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041, where the defendant was found guilty of, or pled guilty or nolo contendere to any such offense, or that the defendant, as a minor, was found to have committed, or pled guilty or nolo contendere to committing, such an offense as a delinquent act, without regard to whether adjudication was withheld.

(b) Remits a \$75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has submitted to the department a certified copy of the disposition of the charge to which the petition to expunge pertains.

(d) Has never <+>, prior to the date on which the application for a certificate of eligibility is filed, +>> <<- previously ->> been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(e) Has not been adjudicated guilty of, or adjudicated delinquent for committing, any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.

(f) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(g) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to expunge pertains.

(h) Is not required to wait a minimum of 10 years prior to being eligible for an expunction of such records because all charges related to the arrest or criminal activity to which the petition to expunge pertains were dismissed prior to trial, adjudication, or the withholding of adjudication. Otherwise, such criminal history record must be sealed under this section, former s. 893.14, former s. 901.33, or former s. 943.058 for at least 10 years before such record is eligible for expunction.

### (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

(a) In judicial proceedings under this section, a copy of the completed petition to expunge shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to expunge.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department

shall forward the order to expunge to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to expunge entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of an order to expunge which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to expunge. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to expunge entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to expunge when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or such order does not otherwise comply with the requirements of this section.

(4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any criminal history record of a minor or an adult which is ordered expunged by a court of competent jurisdiction pursuant to this section must be physically destroyed or obliterated by any criminal justice agency having custody of such record; except that any criminal history record in the custody of the department must be retained in all cases. A criminal history record ordered expunged that is retained by the department is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and not available to any person or entity except upon order of a court of competent jurisdiction. A criminal justice agency may retain a notation indicating compliance with an order to expunge.

(a) The person who is the subject of a criminal history record that is expunged under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the expunged record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.059;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, < < + s. 402.302(3) + > > < < - s. 402.302(8) - > > , s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.1075(4), s. 985.407, or chapter 400; or

6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity that licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted an expunction under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge an expunged criminal history record.

(c) Information relating to the existence of an expunged criminal history record which is provided in accordance with paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the existence of a criminal history record ordered expunged to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes, and to criminal justice agencies for their respective criminal justice purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of an expunged criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

< < + (5) STATUTORY REFERENCES.--Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference. + > >

Section 5. For the purpose of incorporating all amendments made prior to the effective date of this act to the chapters, sections, or subdivisions of Florida Statutes referenced in section 943.059, Florida Statutes, 1998 Supplement, which amendments have not been incorporated by reference thereto, section 943.059, Florida Statutes, 1998 Supplement, is reenacted and amended to read:

< < FL ST § 943.059 > >

#### 943.059. Court-ordered sealing of criminal history records

The courts of this state shall continue to have jurisdiction over their own procedures, including the maintenance, sealing, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to seal the criminal history record of a minor or an adult who complies with the requirements of this section. The court shall not order a criminal justice agency to seal a criminal history record until the person seeking to seal a criminal history record has applied for and received a certificate of eligibility for sealing pursuant to subsection (2). A criminal history record that relates to a violation of chapter 794, s. 800.04, s. 817.034, s. 827.071, chapter 839, s. 893.135, or a violation enumerated in s. 907.041 may not be sealed, without regard to whether adjudication was withheld, if the defendant was found guilty of or pled guilty or nolo contendere to the offense, or if the defendant, as a minor, was found to have committed or pled guilty or nolo contendere to committing the offense as a delinquent act. The court may only order sealing of a criminal history record pertaining to one arrest or one incident of alleged criminal activity, except as provided in this section. The court may, at its sole discretion, order the sealing of a criminal history record pertaining to more than one arrest if the additional arrests directly relate to the original arrest. If the court intends to order the sealing of records pertaining to such additional arrests, such intent must be specified in the order. A criminal justice agency may not seal any record pertaining to such additional arrests if the order to seal does not

articulate the intention of the court to seal records pertaining to more than one arrest. This section does not prevent the court from ordering the sealing of only a portion of a criminal history record pertaining to one arrest or one incident of alleged criminal activity. Notwithstanding any law to the contrary, a criminal justice agency may comply with laws, court orders, and official requests of other jurisdictions relating to sealing, correction, or confidential handling of criminal history records or information derived therefrom. This section does not confer any right to the sealing of any criminal history record, and any request for sealing a criminal history record may be denied at the sole discretion of the court.

(1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each petition to a court to seal a criminal history record is complete only when accompanied by:

(a) A certificate of eligibility for sealing issued by the department pursuant to subsection (2).

(b) The petitioner's sworn statement attesting that the petitioner:

1. Has never <<+ , prior to the date on which the petition is filed, +>> <<- previously ->> been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

2. Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

3. Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, former s. 943.058, or from any jurisdiction outside the state.

4. Is eligible for such a sealing to the best of his or her knowledge or belief and does not have any other petition to seal or any petition to expunge pending before any court.

Any person who knowingly provides false information on such sworn statement to the court commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to petitioning the court to seal a criminal history record, a person seeking to seal a criminal history record shall apply to the department for a certificate of eligibility for sealing. The department shall, by rule adopted pursuant to chapter 120, establish procedures pertaining to the application for and issuance of certificates of eligibility for sealing. The department shall issue a certificate of eligibility for sealing to a person who is the subject of a criminal history record provided that such person:

(a) Has submitted to the department a certified copy of the disposition of the charge to which the petition to seal pertains.

(b) Remits a \$75 processing fee to the department for placement in the Department of Law Enforcement Operating Trust Fund, unless such fee is waived by the executive director.

(c) Has never <<+ , prior to the date on which the application for a certificate of eligibility is filed, +>> <<- previously ->> been adjudicated guilty of a criminal offense or comparable ordinance violation or adjudicated delinquent for committing a felony or a misdemeanor specified in s. 943.051(3)(b).

(d) Has not been adjudicated guilty of or adjudicated delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains.

(e) Has never secured a prior sealing or expunction of a criminal history record under this section, former s. 893.14, former s. 901.33, or former s. 943.058.

(f) Is no longer under court supervision applicable to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains.

(3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

(a) In judicial proceedings under this section, a copy of the completed petition to seal shall be served upon the appropriate state attorney or the statewide prosecutor and upon the arresting agency; however, it is not necessary to make any agency other than the state a party. The appropriate state attorney or the statewide prosecutor and the arresting agency may respond to the court regarding the completed petition to seal.

(b) If relief is granted by the court, the clerk of the court shall certify copies of the order to the appropriate state attorney or the statewide prosecutor and to the arresting agency. The arresting agency is responsible for forwarding the order to any other agency to which the arresting agency disseminated the criminal history record information to which the order pertains. The department shall forward the order to seal to the Federal Bureau of Investigation. The clerk of the court shall certify a copy of the order to any other agency which the records of the court reflect has received the criminal history record from the court.

(c) For an order to seal entered by a court prior to July 1, 1992, the department shall notify the appropriate state attorney or statewide prosecutor of any order to seal which is contrary to law because the person who is the subject of the record has previously been convicted of a crime or comparable ordinance violation or has had a prior criminal history record sealed or expunged. Upon receipt of such notice, the appropriate state attorney or statewide prosecutor shall take action, within 60 days, to correct the record and petition the court to void the order to seal. The department shall seal the record until such time as the order is voided by the court.

(d) On or after July 1, 1992, the department or any other criminal justice agency is not required to act on an order to seal entered by a court when such order does not comply with the requirements of this section. Upon receipt of such an order, the department must notify the issuing court, the appropriate state attorney or statewide prosecutor, the petitioner or the petitioner's attorney, and the arresting agency of the reason for noncompliance. The appropriate state attorney or statewide prosecutor shall take action within 60 days to correct the record and petition the court to void the order. No cause of action, including contempt of court, shall arise against any criminal justice agency for failure to comply with an order to seal when the petitioner for such order failed to obtain the certificate of eligibility as required by this section or when such order does not comply with the requirements of this section.

(e) An order sealing a criminal history record pursuant to this section does not require that such record be surrendered to the court, and such record shall continue to be maintained by the department and other criminal justice agencies.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A criminal history record of a minor or an adult which is ordered sealed by a court of competent jurisdiction pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, to criminal justice agencies for their respective criminal justice purposes, or to those entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes.

(a) The subject of a criminal history record sealed under this section or under other provisions of law, including former s. 893.14, former s. 901.33, and former s. 943.058, may lawfully deny or fail to acknowledge the arrests covered by the sealed record, except when the subject of the record:

1. Is a candidate for employment with a criminal justice agency;
2. Is a defendant in a criminal prosecution;
3. Concurrently or subsequently petitions for relief under this section or s. 943.0585;
4. Is a candidate for admission to The Florida Bar;
5. Is seeking to be employed or licensed by or to contract with the Department of Children and Family Services or the Department of Juvenile Justice or to be employed or used by such contractor or licensee in a sensitive position having direct contact with children, the developmentally disabled, the aged, or the elderly as provided in s. 110.1127(3), s. 393.063(14), s. 394.4572(1), s. 397.451, < < + s. 402.302(3) + > > < < - s. 402.302(8) - > > , s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s. 415.103, s. 985.407, or chapter 400; or
6. Is seeking to be employed or licensed by the Office of Teacher Education, Certification, Staff Development, and Professional Practices of the Department of Education, any district school board, or any local governmental entity which licenses child care facilities.

(b) Subject to the exceptions in paragraph (a), a person who has been granted a sealing under this section, former s. 893.14, former s. 901.33, or former s. 943.058 may not be held under any provision of law of this state to commit perjury or to be otherwise liable for giving a false statement by reason of such person's failure to recite or acknowledge a sealed criminal history record.

(c) Information relating to the existence of a sealed criminal record provided in accordance with the provisions of paragraph (a) is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that the department shall disclose the sealed criminal history record to the entities set forth in subparagraphs (a)1., 4., 5., and 6. for their respective licensing and employment purposes. It is unlawful for any employee of an entity set forth in subparagraph (a)1., subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6. to disclose information relating to the existence of a sealed criminal history record of a person seeking employment or licensure with such entity or contractor, except to the person to whom the criminal history record relates or to persons having direct responsibility for employment or licensure decisions. Any person who violates the provisions of this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

< < + (5) STATUTORY REFERENCES.--Any reference to any other chapter, section, or subdivision of the Florida Statutes in this section constitutes a general reference under the doctrine of incorporation by reference. + > >

< < FL ST § 943.051 > >

Section 6. < < + Subsection (5) of section 943.051, Florida Statutes, as amended by section 6 of chapter 98-94, Laws of Florida, is repealed. + > >

Section 7. < < + In order to meet added demand for the release of criminal history information created by this act, the Department of Law Enforcement may file an application with the Executive Office of the Governor certifying that there are no authorized positions available for addition, deletion, or transfer within the agency and recommending an increase in the number of positions.

The Administration Commission may, after a public hearing, authorize an increase in the number of positions in excess of the amount established by the Legislature. Any request under this section is subject to the notice and review procedures set forth in section 216.177, Florida Statutes. + > >

Section 8. Subsection (14) of section 790.065, Florida Statutes, as created by section 1 of chapter 93-197, Laws of Florida, is amended to read:

< < FL ST § 790.065 > >

790.065. Sale and delivery of firearms

(14) This section is repealed effective < < + June 1, 2000 + > > < < - October 1, 1999 - > > .

Section 9. Subsection (1) of section 790.065, Florida Statutes, 1998 Supplement, is amended to read:

< < FL ST § 790.065 > >

790.065. Sale and delivery of firearms

(1) A licensed importer, licensed manufacturer, or licensed dealer may not sell or deliver from her or his inventory at her or his licensed premises any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer, or licensed collector, until she or he has:

(a) Obtained a completed form from the potential buyer or transferee, which form shall have been promulgated by the Department of Law Enforcement and provided by the licensed importer, licensed manufacturer, or licensed dealer, which shall include the name, date of birth, gender, race, and social security number or other identification number of such potential buyer or transferee and has inspected proper identification including an identification containing a photograph of the potential buyer or transferee.

(b) Collected a fee from the potential buyer for processing the criminal history check of the potential buyer. The fee shall be < < + established by the Department of Law Enforcement and may not exceed + > > \$8 < < + per transaction + > > . < < + The Department of Law Enforcement may reduce, or suspend collection of, the fee to reflect payment received from the Federal Government applied to the cost of maintaining the criminal history check system established by this section as a means of facilitating or supplementing the National Instant Criminal Background Check System. + > > The Department of Law Enforcement shall, by rule, establish procedures for the fees to be transmitted by the licensee to the Department of Law Enforcement. All such fees shall be deposited into the Department of Law Enforcement Operating Trust Fund, but shall be segregated from all other funds deposited into such trust fund and must be accounted for separately. Such segregated funds must not be used for any purpose other than the operation of the criminal history checks required by this section. The Department of Law Enforcement, each year prior to February 1, shall make a full accounting of all receipts and expenditures of such funds to the President of the Senate, the Speaker of the House of Representatives, the majority and minority leaders of each house of the Legislature, and the chairs of the appropriations committees of each house of the Legislature. In the event that the cumulative amount of funds collected exceeds the cumulative amount of expenditures by more than \$2.5 million, excess funds may be used for the purpose of purchasing soft body armor for law enforcement officers.

(c) Requested, by means of a toll-free telephone call, the Department of Law Enforcement to conduct a check of the information as reported and reflected in the Florida Crime Information Center and National Crime Information Center systems as of the date of the request.

(d) Received a unique approval number for that inquiry from the Department of Law Enforcement, and recorded the date and such number on the consent form.

However, if the person purchasing, or receiving delivery of, the firearm is a holder of a valid concealed weapons or firearms license pursuant to the provisions of s. 790.06 or holds an active certification from the Criminal Justice Standards and Training Commission as a "law enforcement officer," a "correctional officer," or a "correctional probation officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), the provisions of this subsection do not apply.

Section 10. Subsections (6), (7), and (8) of section 943.053, Florida Statutes, 1998 Supplement, are renumbered as subsections (7), (8), and (9), respectively, and a new subsection (6) is added to said section, to read:

< < FL ST § 943.053 > >

943.053. Dissemination of criminal justice information; fees

< < + (6) Notwithstanding any other provision of law, the department shall provide to each office of the Public Defender on-line access to criminal records of this state which are not exempt from disclosure under chapter 119 or confidential under law. Such access shall be used solely in support of the duties of a public defender as provided in s. 27.51 or of any attorney specially assigned as authorized in s. 27.53 in the representation of any person who is determined indigent as provided in s. 27.52. The costs of establishing and maintaining such on-line access shall be borne by the office to which the access has been provided. + > >

Section 11. This act shall take effect July 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.

FL LEGIS 99-300

END OF DOCUMENT

Citation  
GA ST 16-11-182  
Code, 16-11-182

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CODE OF GEORGIA  
TITLE 16. CRIMES AND OFFENSES  
CHAPTER 11. OFFENSES AGAINST PUBLIC ORDER AND SAFETY  
ARTICLE 4. DANGEROUS INSTRUMENTALITIES AND PRACTICES  
PART 5. BRADY LAW REGULATIONS

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Current through 1999 General Assembly

16-11-182 Penalties for violations.

(a) Any licensed dealer or any government official who willfully and intentionally requests a criminal history and involuntary hospitalization records check from the bureau for any purpose other than compliance with this part or willfully and intentionally disseminates any criminal history or involuntary hospitalization records information to any person other than the subject of such information shall be guilty of a felony.

(b) Any person who, in connection with the purchase, transfer, or attempted purchase or transfer of a handgun pursuant to Code Section 16-11-172, willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive the licensee shall be guilty of a misdemeanor.

(c) Any licensed dealer who willfully and intentionally sells or delivers a handgun in violation of this part shall be guilty of a misdemeanor.

(d) Any purchaser or owner of a firearm who willfully and intentionally transfers the firearm at any time to a person who he or she knows to be prohibited from possession of a handgun by state or federal law shall be guilty of a felony and shall be punished by imprisonment for not less than one nor more than three years.

(Code 1981, s 16-11-182, enacted by Ga. L. 1995, p. 139, s 2.)

Code, 16-11-182

GA ST 16-11-182

END OF DOCUMENT

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**IDAHO CODE**  
**TITLE 19. CRIMINAL PROCEDURE**  
**CHAPTER 54. RECORDS CHECKS FOR TRANSFERS OF HANDGUNS**

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Current through End of 1999 Reg. Sess.

19-5414 False statement -- False identification.

Any person who, in connection with the transfer or attempted transfer of a firearm pursuant to this chapter, willfully and intentionally makes any materially false oral or written statement or willfully and intentionally furnishes or exhibits any false identification intended or likely to deceive a firearms dealer shall be guilty of a misdemeanor.

[I.C., § 19-5414, as added by 1994, ch. 377, § 1, p. 1210.]

I.C. § 19-5414

ID ST § 19-5414

END OF DOCUMENT

This document has been amended. Use UPDATE.  
See SCOPE for more information.

Formerly cited as IL ST CH 38 ¶ 83-4

**WEST'S SMITH-HURD ILLINOIS COMPILED STATUTES ANNOTATED**  
**CHAPTER 430. PUBLIC SAFETY**  
**ACT 65. FIREARM OWNERS IDENTIFICATION CARD ACT**

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Current through P.A. 91-6, apv. 5/28/1999

**65/4. Application for Firearm Owner's Identification Card**

**§ 4. (a) Each applicant for a Firearm Owner's Identification Card shall:**

(1) Make application on blank forms prepared and furnished at convenient locations throughout the State by the Department of State Police; and

(2) Submit evidence under penalty of perjury to the Department of State Police that:

(i) He is 21 years of age or over, or if he is under 21 years of age that he has the written consent of his parent or legal guardian to possess and acquire firearms and firearm ammunition and that he has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he is not an individual prohibited from having a Card;

(ii) He has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He is not addicted to narcotics;

(iv) He has not been a patient in a mental institution within the past 5 years;

(v) He is not mentally retarded;

(vi) He is not an alien who is unlawfully present in the United States under the laws of the United States;

(vii) He or she is not subject to an existing order of protection prohibiting him or her from possessing a firearm;

(viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(ix) He or she has not been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after the effective date of this amendatory Act of 1997; and

(x) He or she has not been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before the effective date of this

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amendatory Act of 1997.

(b) Each application form shall include the following statement printed in bold type: "Warning: False statements of the applicant shall result in prosecution for perjury in accordance with Section 32-2 of the Criminal Code of 1961.". [FN1]

(c) Upon such written consent, pursuant to Section 4, paragraph (a)(2)(i), the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

#### CREDIT(S)

#### 1993 Main Volume

Laws 1967, p. 2600, § 4, eff. July 1, 1968. Amended by P.A. 76-447, § 1, eff. Jan. 1, 1970; P.A. 76-1922, § 1, eff. Oct. 13, 1969; P.A. 76-2075, § 1, eff. July 1, 1970; P.A. 83-1056, § 2, eff. July 1, 1984; P.A. 84-25, Art. IV, § 11, eff. July 18, 1985. 1999 Electronic Update

Amended by P.A. 88-680, Art. 50, § 50-3, eff. Jan. 1, 1995; P.A. 89-367, § 5, eff. Jan. 1, 1996; P.A. 90-493, § 5, eff. Jan. 1, 1998.

#### FORMER REVISED STATUTES CITATION

#### 1993 Main Volume

Formerly Ill.Rev.Stat.1991, ch. 38, ¶ 83-4.

[FN1] 720 ILCS 5/32-2.

#### VALIDITY

< The Appellate Courts of Illinois, Second and Third District, have held that P.A. 88-680 violated the single-subject rule of the Illinois Constitution in the cases of *People v. Dainty*, App. 3 Dist.1998, 299 Ill.App.3d 235, 701 N.E.2d 118, 233 Ill.Dec. 475 and *People v. Williams*, App. 2 Dist.1999, 302 Ill.App.3d 975, 707 N.E.2d 980, 236 Ill.Dec. 642. >

#### HISTORICAL AND STATUTORY NOTES

P.A. 76-447 substituted "Department of Law Enforcement" for "Department of Public Safety" each time it appears in this section.

P.A. 76-1922 substituted "is not an individual prohibited from having a" for "shall have a currently valid" in subd. (a)(2)(i); and inserted at the end of that subsection the requirement for the affidavit.

P.A. 76-2075 consolidated the changes made by the multiple 1969 amendments.

P.A. 83-1056 in subd. (a)(2) substituted "penalty or perjury" for "oath", deleted five year felony conviction or confinement limitation to applicability of subds. (a)(2)(ii), inserted new subd. (b), and redesignated former subd. (b) as subd. (c).

P.A. 84-25, in subd. (a)(1) and (2), substituted "State Police" for "Law Enforcement".

P.A. 88-680, in subsec. (a)(2), added the requirement that an applicant must submit evidence that

he is not an alien unlawfully present in the United States.

P.A. 89-367, in subsec. (a)(2), added the requirements that the applicant not be subject to an order of protection prohibiting the possession of a firearm and not have been convicted of certain crimes within the past five years in another jurisdiction.

P.A. 90-493, in subsec. (a)(2)(viii), deleted "domestic battery," preceding "battery"; and added subpars. (ix) and (x).

430 I.L.C.S. 65/4

IL ST CH 430 § 65/4

END OF DOCUMENT

ILLINOIS 1999 LEGISLATIVE SERVICE  
Ninety-First General Assembly, 1999

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Additions are indicated by <<+ Text +>> ; deletions by  
<<- Text ->> . Changes in tables are made but not highlighted.

PUBLIC ACT 91-514  
S.B. 48  
WEAPONS-FIREARM OWNER'S IDENTIFICATION CARDS-FORMS

AN ACT in relation to mental health records of applicants for Firearm Owner's Identification Cards.

Be it enacted by the People of the State of Illinois, represented in the  
General Assembly:

Section 5. The Firearm Owners Identification Card Act is amended by changing Section 4 as follows:

<< IL ST CH 430 § 65/4 >>

[S.H.A. 430 ILCS 65/4] (430 ILCS 65/4) (from Ch. 38, par. 83-4)

§ 4. (a) Each applicant for a Firearm Owner's Identification Card <<+ must +>> <<- shall ->> :

(1) Make application on blank forms prepared and furnished at convenient locations throughout the State by the Department of State Police; and

(2) Submit evidence under penalty of perjury to the Department of State Police that:

(i) He <<+ or she +>> is 21 years of age or over, or if he <<+ or she +>> is under 21 years of age that he <<+ or she +>> has the written consent of his <<+ or her +>> parent or legal guardian to possess and acquire firearms and firearm ammunition and that he <<+ or she +>> has never been convicted of a misdemeanor other than a traffic offense or adjudged delinquent, provided, however, that such parent or legal guardian is not an individual prohibited from having a Firearm Owner's Identification Card and files an affidavit with the Department as prescribed by the Department stating that he <<+ or she +>> is not an individual prohibited from having a Card;

(ii) He <<+ or she +>> has not been convicted of a felony under the laws of this or any other jurisdiction;

(iii) He <<+ or she +>> is not addicted to narcotics;

(iv) He <<+ or she +>> has not been a patient in a mental institution within the past 5 years;

(v) He <<+ or she +>> is not mentally retarded;

(vi) He < < + or she + > > is not an alien who is unlawfully present in the United States under the laws of the United States;

(vii) He or she is not subject to an existing order of protection prohibiting him or her from possessing a firearm;

(viii) He or she has not been convicted within the past 5 years of battery, assault, aggravated assault, violation of an order of protection, or a substantially similar offense in another jurisdiction, in which a firearm was used or possessed;

(ix) He or she has not been convicted of domestic battery or a substantially similar offense in another jurisdiction committed on or after the effective date of this amendatory Act of 1997; and

(x) He or she has not been convicted within the past 5 years of domestic battery or a substantially similar offense in another jurisdiction committed before the effective date of this amendatory Act of 1997 < < + ; and + > > < < . . - > >

< < + (3) Upon request by the Department of State Police, sign a release on a form prescribed by the Department of State Police waiving any right to confidentiality and requesting the disclosure to the Department of State Police of limited mental health institution admission information from another state, the District of Columbia, any other territory of the United States, or a foreign nation concerning the applicant for the sole purpose of determining whether the applicant is or was a patient in a mental health institution and disqualified because of that status from receiving a Firearm Owner's Identification Card. No mental health care or treatment records may be requested. The information received shall be destroyed within one year of receipt. + > >

(b) Each application form shall include the following statement printed in bold type: "Warning: False statements of the applicant shall result in prosecution for perjury in accordance with Section 32-2 of the Criminal Code of 1961." [FN1]

(c) Upon such written consent, pursuant to Section 4, paragraph (a) (2) (i), the parent or legal guardian giving the consent shall be liable for any damages resulting from the applicant's use of firearms or firearm ammunition.

(Source: P.A. 89-367, eff. 1-1-96; 90-493, eff. 1-1-98)

[FN1] 720 ILCS 5/32-2

Approved: August 13, 1999

Effective: January 1, 2000

IL LEGIS 91-514 (1999)

END OF DOCUMENT

**WEST'S ANNOTATED INDIANA CODE  
TITLE 35. CRIMINAL LAW AND PROCEDURE  
ARTICLE 47. WEAPONS AND INSTRUMENTS OF VIOLENCE  
CHAPTER 2. REGULATION OF HANDGUNS**

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Current through End of 1999 1st Reg. Sess.

35-47-2-17 Giving false information or offering false evidence of identity; violation of section

Sec. 17. No person, in purchasing or otherwise securing delivery of a handgun or in applying for a license to carry a handgun, shall give false information or offer false evidence of identity. In addition to any penalty provided by this chapter, any handgun obtained through false information shall be subject to confiscation and disposition as provided in this chapter. Upon notice of a violation of this section by the superintendent, it shall be the duty of the sheriff or chief of police or corresponding officer of the jurisdiction in which the purchaser resides to confiscate the firearm and retain it as evidence pending trial for the offense.

CREDIT(S)

1998 Main Volume

As added by P.L.311-1983, SEC.32.

**HISTORICAL AND STATUTORY NOTES**

1998 Main Volume

**Formerly:**

IC 35-23-4.1-11.

Acts 1973, P.L.333, SEC.1.

I.C. 35-47-2-17

IN ST 35-47-2-17

END OF DOCUMENT

**IOWA CODE ANNOTATED  
TITLE XVI. CRIMINAL LAW AND PROCEDURE  
SUBTITLE 1. CRIME CONTROL AND CRIMINAL ACTS  
CHAPTER 724. WEAPONS**

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Current through End of 1998 Reg. Sess.

**724.21. Giving false information when acquiring weapon**

A person who gives a false name or presents false identification, or otherwise knowingly gives false material information to one from whom the person seeks to acquire a pistol or revolver, commits a class "D" felony.

**CREDIT(S)**

1993 Main Volume

Acts 1976 (66 G.A.) ch. 1245 (ch. 1), § 2413, eff. Jan. 1, 1978. Amended by Acts 1978 (67 G.A.) ch. 1174, § 14, eff. Jan. 1, 1979; Acts 1990 (73 G.A.) ch. 1147, § 6, eff. April 5, 1990.

**HISTORICAL AND STATUTORY NOTES**

1993 Main Volume

**Derivation:**

Codes 1977, 1975, 1973, 1971, 1966, 1962, 1958, 1954, 1950, 1946, § 695.23.  
Codes 1939, 1935, 1931, 1927, 1924, § 12955.  
Code Supp. 1913, § 4775-10a.  
Acts 1913 (35 G.A.) ch. 297, § 10.

The 1978 amendment substituted "acquire" for "purchase".

The 1990 amendment inserted "knowingly" and "material" and substituted "a class 'D' felony" for "an aggravated misdemeanor".

I. C. A. § 724.21

IA ST § 724.21

END OF DOCUMENT

**MAINE REVISED STATUTES ANNOTATED  
TITLE 15. COURT PROCEDURE--CRIMINAL  
PART 1. CRIMINAL PROCEDURE GENERALLY  
CHAPTER 17. MISCELLANEOUS PROVISIONS**

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Current through End of 1997 Second Sp. Sess.

**§ 455. Record of sales of firearms**

A dealer may not sell, let or loan any firearm to any person without making a copy of the form a dealer must keep as prescribed by 18 United States Code, Section 923. [FN1] The copy must be made and marked as "STATE COPY" before the firearm is delivered, and is open to the inspection of any sheriff, deputy sheriff, police officer, constable, game warden or prosecuting attorney. Any dealer who fails to keep the copy or refuses to show it to any officer listed in this section commits a civil violation for which a forfeiture not to exceed \$50 may be adjudged. Whoever gives a false or fictitious name to the dealer commits a civil violation for which a forfeiture not to exceed \$50 may be adjudged. This section does not apply to wholesalers who sell only to other dealers or to manufacturers who sell only at wholesale.

CREDIT(S)

1980 Main Volume

R.S.1954, c. 144, § 13. 1998 Electronic Pocket Part Update

1979, c. 663, § 92, eff. March 28, 1980; 1993, c. 185, § 1.

[FN1] 18 U.S.C.A. § 923.

**HISTORICAL AND STATUTORY NOTES**

1998 Electronic Pocket Part Update

**Amendments**

**1979 Amendment.** Laws 1979, c. 663, § 92, repealed and replaced 3rd and 4th sentences.

**1993 Amendment.** Laws 1993, c. 185, § 1, substituted requirement that dealer may not sell or loan any firearm without making a copy of the form he must keep, as prescribed by 18 United States Code, § 923, for requirement that such dealer shall not sell or loan any firearm without first recording the name or make, calibre and number of any firearm, and name and address of the purchaser or recipient of said firearm, and added requirement that such copy must be marked as "state copy" before such firearm is delivered.

15 M. R. S. A. § 455

ME ST T. 15 § 455

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Citation  
MD CODE 1957, Art. 27, s  
Code 1957, Art. 27, s 441

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**This document has been amended. Use UPDATE.  
See SCOPE for more information.**

ANNOTATED CODE OF MARYLAND  
CODE OF 1957  
ARTICLE 27. CRIMES AND PUNISHMENTS.  
I CRIMES AND PUNISHMENTS  
Regulated Firearms

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Current through End of 1998 Reg. Sess.

s 441 Definitions.

(a) In general. -- In this subheading the following words have the meanings indicated.

(b) Alcohol offense. -- "Alcohol offense" means an offense under s 21-902 (a), (b), or (c) of the Transportation Article.

(c) Antique firearm. -- "Antique firearm" means:

(1) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured prior to 1899; or

(2) Any replica of any firearm described in paragraph (1) of this subsection if the 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.

(d) Assault weapon. -- "Assault weapon" means any of the following specific firearms or their copies regardless of which company produced and manufactured that firearm:

- (1) American Arms Spectre da Semiautomatic carbine;
- (2) AK-47 in all forms;
- (3) Algimec AGM-1 type semi-auto;
- (4) AR 100 type semi-auto;
- (5) AR 180 type semi-auto;
- (6) Argentine L.S.R. semi-auto;
- (7) Australian Automatic Arms SAR type semi-auto;
- (8) Auto-Ordnance Thompson M1 and 1927 semi-automatics;
- (9) Barrett light .50 cal. semi-auto;
- (10) Beretta AR70 type semi-auto;
- (11) Bushmaster semi-auto rifle;
- (12) Calico models M-100 and M-900;
- (13) CIS SR 88 type semi-auto;
- (14) Claridge HI TEC C-9 carbines;
- (15) Colt AR-15, CAR-15, and all imitations except Colt AR-15 Sporter H-BAR rifle;

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- (16) Daewoo MAX 1 and MAX 2, aka AR 100, 110C, K-1, and K-2;
  - (17) Dragunov Chinese made semi-auto;
  - (18) Famas semi-auto (.223 caliber);
  - (19) Feather AT-9 semi-auto;
  - (20) FN LAR and FN FAL assault rifle;
  - (21) FNC semi-auto type carbine;
  - (22) F.I.E./Franchi LAW 12 and SPAS 12 assault shotgun;
  - (23) Steyr-AUG-SA semi-auto;
  - (24) Galil models AR and ARM semi-auto;
  - (25) Heckler and KOCH HK-91 A3, HK-93 A2, HK-94 A2 and A3;
  - (26) Holmes model 88 shotgun;
  - (27) Avtomat Kalashnikov semiautomatic rifle in any format;
  - (28) Manchester Arms "Commando" MK-45, MK-9;
  - (29) Mandell TAC-1 semi-auto carbine;
  - (30) Mossberg model 500 Bullpup assault shotgun;
  - (31) Sterling Mark 6;
  - (32) P.A.W.S. carbine;
  - (33) Ruger mini-14 folding stock model (.223 caliber);
  - (34) SIG 550/551 assault rifle (.223 caliber);
  - (35) SKS with detachable magazine;
  - (36) AP-74 Commando type semi-auto;
  - (37) Springfield Armory BM-59, SAR-48, G3, SAR-3, M-21 sniper rifle, M1A, excluding the M1 Garand;
  - (38) Street sweeper assault type shotgun;
  - (39) Striker 12 assault shotgun in all formats;
  - (40) Unique F11 semi-auto type;
  - (41) Daewoo USAS 12 semi-auto shotgun;
  - (42) UZI 9mm carbine or rifle;
  - (43) Valmet M-76 and M-78 semi-auto;
  - (44) Weaver Arms "Nighthawk" semi-auto carbine; or
  - (45) Wilkinson Arms 9mm semi-auto "Terry".
  - (e) Crime of violence. -- "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;
    - (7) Kidnapping;
    - (8) Voluntary manslaughter;
    - (9) Maiming;
    - (10) Mayhem as previously proscribed under former s 384 of this article;
    - (11) Murder in the first or second degree;
    - (12) Rape in the first or second degree;
    - (13) Robbery;
    - (14) Robbery with a dangerous or deadly weapon;
    - (15) Sexual offense in the first, second, or third degree;
    - (16) An attempt to commit any of the aforesaid offenses; or
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(17) Assault with intent to commit any of the aforesaid offenses or any offense punishable by imprisonment for more than 1 year.

(f) Dealer. -- "Dealer" means any person who is engaged in the business of:

- (1) Selling, renting, or transferring firearms at wholesale or retail; or
- (2) Repairing firearms.

(g) Designated law enforcement agency. -- "Designated law enforcement agency" means any law enforcement agency approved and designated by the Secretary to process applications to purchase regulated firearms for secondary sales.

(h) Engaged in the business. -- "Engaged in the business" means any person who:

- (1) Is licensed as a Maryland regulated firearms dealer;
- (2) Is licensed as a federal 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.

(i) Firearm. -- "Firearm" means:

- (1) 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; or
- (2) The frame or receiver of any such weapon.

(j) Fugitive from justice. -- "Fugitive from justice" means any person who has fled from a sheriff or other peace officer within this State, or who has fled from any state, the District of Columbia, or territory or possession of the United States, to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

(k) Gun show. -- "Gun show" means any organized gathering open to the public at which any firearm is displayed.

(l) Habitual drunkard. -- "Habitual drunkard" means any person who has been found guilty of any three alcohol offenses, one of which occurred within the past year.

(m) Habitual user of controlled dangerous substances. -- "Habitual user of controlled dangerous substances" means any person who has been found guilty of two controlled dangerous substance offenses, one of which occurred within the past 5 years.

(n) Handgun. -- "Handgun" means any firearm with a barrel less than 16 inches in length including signal, starter, and blank pistols.

(o) Minor. -- "Minor" means any person under the age of 18 years.

(p) Pepper mace. -- "Pepper mace" means an aerosol propelled combination of highly disabling irritant pepper based products and is also known as oleo-resin capsicum (O.C.) spray.

(q) Person. -- "Person" means an individual, partnership, association, or corporation.

(r) Regulated firearm. -- "Regulated firearm" means:

- (1) Any handgun as defined in this section; or
- (2) Any assault weapon as defined in this section.

(s) Regulated firearms dealer. -- "Regulated firearms dealer" means any person who possesses a valid Maryland regulated firearms dealers license issued by the Secretary.

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(t) Rent. -- "Rent" means the temporary transfer of a regulated firearm for consideration where the firearm is taken from the firearm owner's property.

(u) Secondary sale. -- "Secondary sale" means any sale of a regulated firearm where neither party to the transaction is engaged in the business as defined in this section.

(v) Secretary. -- "Secretary" means the Secretary of the State Police or the Secretary's designee.

(w) Straw purchase. -- "Straw purchase" means any sale of a regulated firearm where the individual uses another person (the straw purchaser) to complete the application to purchase a regulated firearm, take initial possession of that firearm, and subsequently transfer that firearm to the individual.

(1996, ch. 561, s 2; ch. 562, s 2; 1997, ch. 14, s 1.)

Code 1957, Art. 27, s 441

MD CODE 1957, Art. 27, s 441

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| MD LEGIS 422 (1999)                   | R 1 OF 1 | MD-LEGIS | Page |
| 1999 Maryland Laws Ch. 422 (H.B. 463) |          |          |      |

## MARYLAND 1999 SESSION LAWS

## REGULAR SESSION

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Additions are indicated by <<+ Text +>> ; deletions by  
 <<- Text ->> . Changes in tables are made but not highlighted.

Ch. 422

H.B. No. 463

## CRIMES AND PUNISHMENTS--ESCAPE REVISION

AN ACT concerning

Crimes--Escape Revision

For the purpose of revising and restating the laws relating to escape, contraband, and related offenses; prohibiting a person from escaping from a place of confinement; prohibiting a person from violating certain restrictions on movement under temporary release or a home detention order or agreement; prohibiting a person who has been lawfully arrested from departing from custody under certain circumstances; prohibiting a person from failing to obey a court order to report to a place of confinement; establishing certain penalties; providing for certain conditions on sentences; allowing a court to order payment of certain expenses under certain circumstances; providing that voluntary intoxication is not a defense to certain charges; prohibiting the deposit or concealment of a weapon in certain places to effect an escape; establishing that sentence for a certain offense is separate from certain other offenses; clarifying and establishing that violations of certain restrictions on movement by certain persons temporarily released from a place of confinement or subject to certain home detention orders or agreements are guilty of escape; prohibiting certain persons from violating certain other restrictions imposed as conditions of certain releases or in certain home detention orders or agreements; establishing penalties; making conforming and stylistic changes; defining certain terms; providing that certain notes contained in this Act are not law; and generally relating to escape, contraband, and related offenses.

By repealing

Article 27--Crimes and Punishments

Section 139

Annotated Code of Maryland

(1996 Replacement Volume and 1998 Supplement)

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By adding to

Article 27--Crimes and Punishments

Section 136 through 139, inclusive, to be under the amended subheading  
"Escape and Contraband in Places of Confinement"

Annotated Code of Maryland

(1996 Replacement Volume and 1998 Supplement)

By repealing and reenacting, with amendments,

Article 27--Crimes and Punishments

Section 372, 410, 413(g)(1), and 441

Annotated Code of Maryland

(1996 Replacement Volume and 1998 Supplement)

By repealing and reenacting, with amendments,

Article 88B--Department of State Police

Section 26

Annotated Code of Maryland

(1998 Replacement Volume)

By repealing

Article--Correctional Services

Section 8-801 through 8-806

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of  
1999)

By renumbering

Article--Correctional Services

Section 8-807 and 8-808, respectively

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to be Section 8-801 and 8-802, respectively

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1999)

By repealing and reenacting, with amendments,

Article--Correctional Services

Section 3-305(c)(2), 3-409(c), 3-803(b)(2), 3-807(i)(2), 3-808(d), 3-811(c), 9-602(e), 11-319(a)(5), 11-702(b)(8), 11-703(d)(5)(iii), 11-705(i) through (s), 11-708(b)(8) and (c)(4)(ii)2., 11-709(b)(4)(ii)2., 11-711(h)(3) and (4), 11-712(b)(4)(iii)2., (c)(6), and (d)(4)(ii)2., 11-714(d)(4)(ii)2., 11-715(g), 11-716(h)(3) and (4) and (k)(3) and (4), 11-717(f)(3), 11-723(b)(4)(ii)2. and (8), and 11-724(h)(3) and (4) and (i)(2)

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1999)

By repealing

Article--Correctional Services

Section 11-703(f)(4), 11-705(h), 11-706(b)(8), 11-711(h)(2), 11-714(c)(6), 11-716(h)(2) and (k)(2), 11-717(f)(2), and 11-724(h)(2)

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1999)

By adding to

Article--Correctional Services

Section 11-726

Annotated Code of Maryland

(As enacted by Chapter \_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1999)

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<< Repealed: MD CORR SERV ss 8-801, 8-802, 8-803, 8-804, 8-805, 8-806 >>

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 8-801 through 8-806 of Article--Correctional Services of the Annotated Code of Maryland (as enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1999) be repealed.

<< MD CORR SERV s 8-807 >>

<< MD CORR SERV s 8-801 >>

<< MD CORR SERV s 8-808 >>

<< MD CORR SERV s 8-802 >>

SECTION 2. AND BE IT FURTHER ENACTED, That Section(s) 8-807 and 8-808, respectively, of Article--Correctional Services of the Annotated Code of Maryland (as enacted by Chapter \_\_\_\_\_ (H.B. 11) of the Acts of the General Assembly of 1999) be renumbered to be Section(s) 8-801 and 8-802, respectively.

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article 27--Crimes and Punishments

<< Repealed: MD CRIMES & PUNISH s 19 >>

<< Repealed: MD CODE 1957, Art. 27, s 139 >>

<<- 139. ->>

<<- (a) (1) If any individual who is legally detained in the State penitentiary or a jail, house of correction, reformatory, station house, or other place of confinement in this State or who is committed to the Alcohol and Drug Abuse Administration for examination or inpatient treatment escapes, the individual is guilty of a felony and on conviction by the circuit court for the county in which the escape takes place, is subject to confinement in the State penitentiary or a jail or house of correction for an additional period not exceeding 10 years. The sentence imposed under this subsection shall be consecutive to any sentence which was being served at the time of the escape, or any sentence which had been imposed but was not yet being served at the time of sentencing on the escape. A sentence imposed under this subsection may not be suspended. ->>

<<- (2) (i) The following are places of confinement for the purposes of this section: ->>

<<- 1. Detention centers and youth centers operated by the Department of Juvenile Justice; ->>

<<- 2. The programs for committed delinquent or detained youth at the Charles H. Hickey, Jr. School, the Thomas O'Farrell Youth Center, the Doncaster Facility, and the Victor Cullen Center; and ->>

<<- 3. The programs for committed delinquent youth operated by the Department of Juvenile Justice at the Cheltenham Youth Facility. ->>

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<<- (ii) The sentence for escape from a facility designated in this paragraph that does not involve an assault may not exceed confinement for 3 years. ->>

<<- (3) If any individual escapes from a facility of the Department of Health and Mental Hygiene after commitment as incompetent to stand trial or not criminally responsible, the individual is guilty of a felony and on conviction is subject to confinement in the State penitentiary or a jail or house of correction for a period not exceeding 10 years. ->>

<<- (b) An escapee who is convicted under subsection (a)(1) of this section is liable for all expenses incurred in the return of the escapee to the jurisdiction of the Division of Correction, State penitentiary, or a jail, house of correction, reformatory, station house, other place of confinement in this State, or the Alcohol and Drug Abuse Administration. The Commissioner, sheriff, or director of the appropriate facility shall notify the returned escapee of any charges. A hearing shall be granted to any returned escapee who wishes to challenge the reasonableness of the charges. The Commissioner, sheriff, or director of the appropriate facility may establish appropriate rules, regulations, and procedures for charging an escapee with expenses, collecting those expenses, and for hearings to challenge those expenses. ->>

<<- (c) A person who aids in the escape of the individual under this section is guilty of a felony and on conviction by the circuit court for the county in which the escape takes place is subject to imprisonment not exceeding 10 years. ->>

<<- Escapes From ->> <<+ Escape and Contraband in Places of +>> Confinement

<< MD CRIMES & PUNISH s 1018 >>

<< MD CODE 1957, Art. 27, s 136 >>

<<+ 136. +>>

<<+ (a) In this subheading the following words have the meanings indicated. +>>

<<+ (b) "Escape" retains its judicially determined meaning. +>>

<<+ (c) "Place of confinement" means: +>>

<<+ (1) a correctional facility as defined in s 1-101 of the correctional services article; +>>

<<+ (2) a place identified in a home detention order or agreement; +>>

<<+ (3) a facility of the department of health and mental hygiene; +>>

<<+ (4) a detention center for juveniles or a facility for juveniles listed in article 83c, s 2-117(a)(2) of the code; or +>>

<<+ (5) any other facility in which a person is confined under color of law. +>>

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definition of escape is intended to include the case law interpreting former Art. 27, s 139. See e.g., Stewart v. State, 275 Md. 258, 340 A.2d 290 (1975); Beasley v. State, 17 Md. App. 7, 299 A.2d 482 (1973); Best v. Warden, 235 Md. 633, 201 A.2d 490 (1964). It is not intended to refer to the common law definition of escape.

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<< MD CRIMES & PUNISH s 1019 >>

<< MD CODE 1957, Art. 27, s 137 >>

<<+ 137. +>>

<<+ (a) A person may not knowingly escape from a place of confinement. +>>

<<+ (b)(1) This subsection applies to a person: +>>

<<+ (i) Temporarily released from a place of confinement; or +>>

<<+ (ii) Committed to home detention under the terms of pretrial release or by the division of correction under title 3, subtitle 4 of the correctional services article. +>>

<<+ (2) a person may not knowingly: +>>

<<+ (i) Violate any restriction on movement imposed under the terms of temporary release or a home detention order or agreement; or +>>

<<+ (ii) Fail to return to a place of confinement under the terms of temporary release or a home detention order or agreement. +>>

<<+ (c) Except as provided in s 137a of this subheading, a person who violates this section is guilty of the felony of escape in the first degree and on conviction is subject to a fine not exceeding \$20,000 or imprisonment not exceeding 10 years or both. +>>

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Former Art. 27, s 139 applied to escapes by persons "legally detained." Because escape has been defined to retain its judicially determined meaning, the former reference to a person "legally detained" has been omitted. In this regard see *Vucci v. State*, 18 Md. App.157, 305 A.2d 483 (1973), holding that a person who is illegally detained because of procedural defects is not entitled to resort to self-help, but rather must apply for release through regular legal channels.

Former Art. 27, s 139 also prohibited a person from aiding the escape of an individual. This revision eliminates this provision because the current common law on accomplice liability adequately addresses this situation. This Committee has previously recommended the deletion of similar provisions for this reason. See e.g., "Arson and Burning" subheading of this article.

<< MD CRIMES & PUNISH s 1020 >>

<< MD CODE 1957, Art. 27, s 137A >>

<<+ 137A. +>>

<<+ (a)(1) A person who has been lawfully arrested may not knowingly depart from custody without the authorization of a law enforcement or judicial officer. +>>

<<+ (2) a person may not knowingly fail to obey a court order to report to a place of confinement. +>>

<<+ (3) a person who is serving a sentence in a home detention program other than the division of correction home detention program under title 3, subtitle 4 of the correctional services article may not knowingly: +>>

<<+ (i) Violate any restriction on movement imposed under the terms of the home detention order or agreement; or +>>

<<+ (ii) Fail to return to a place of confinement under the terms of the

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home detention order or agreement. +>>

<<+ (b) (1) A person who violates this section is guilty of the misdemeanor of escape in the second degree and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 3 years or both. +>>

<<+ (2) if an escape from a detention +>> <<+ center for juveniles or a facility for juveniles listed in article 83c, s 2-117(a) (2) of the code does not involve an assault, a violator is guilty of escape in the second degree and punishable as provided in paragraph (1) of this subsection. +>>

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The prohibition in subsection (a) (2) of this section is intended to apply to an order to report for service of a weekend or other periodic sentence.

<< MD CRIMES & PUNISH s 1021 >>

<< MD CODE 1957, Art. 27, s 138 >>

<<+ 138. +>>

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

<<+ (2) "alcoholic beverage" means beer, wine, or distilled spirits. +>>

<<+ (3) "contraband" means any item, material, substance, or other thing of value that: +>>

<<+ (i) Is not authorized for inmate possession by the managing official; or +>>

<<+ (ii) Is brought into the correctional facility in a manner prohibited by the managing official. +>>

<<+ (4) (i) Except as provided in subparagraph (ii) of this paragraph, "controlled dangerous substance" has the meaning stated in s 277(f) of this article. +>>

<<+ (ii) "Controlled dangerous substance" does not include a drug or substance that is legally possessed by an individual under a written prescription issued by a person authorized by law and designated by the managing official to prescribe inmate medication. +>>

<<+ (5) "managing official" means the administrator, director, warden, superintendent, sheriff, or other individual responsible for the management of a place of confinement. +>>

<<+ (6) "place of confinement" does not include a place identified in a home detention order or agreement. +>>

<<+ (7) "weapon" means a gun, knife, club, explosive, or other article that can be used to kill, maim, or inflict bodily injury. +>>

<<+ (b) (1) (i) A person may not deliver a weapon to a person detained or confined in a place of confinement. +>>

<<+ (ii) A person may not possess a weapon with intent to deliver to a person detained or confined in a place of confinement. +>>

<<+ (iii) A person may not deposit or conceal a weapon in or about a place of confinement or on any land appurtenant to the place of confinement to effect an escape. +>>

<<+ (iv) A person detained or confined in a place of confinement may not receive a weapon. +>>

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<<+ (2) a person who violates this subsection is guilty of a felony and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 10 years or both. +>>

<<+ (c)(1)(i) A person may not deliver contraband with intent to effect an escape to a person detained or confined in a place of confinement. +>>

<<+ (ii) A person may not possess contraband with intent to deliver to a person detained or confined in a place of confinement to effect an escape. +>>

<<+ (iii) A person may not deposit or conceal any contraband in or about a place of confinement or on any land appurtenant to the place of confinement to effect an escape. +>>

<<+ (iv) A person detained or confined in a place of confinement may not receive contraband to effect an escape. +>>

<<+ (2) a person who violates this subsection is guilty of a felony and on conviction is subject to a fine not exceeding \$5,000 or imprisonment not exceeding 10 years or both. +>>

<<+ (d)(1)(i) A person may not deliver any contraband to a person detained or confined in a place of confinement. +>>

<<+ (ii) A person may not possess any contraband with intent to deliver to a person detained or confined in a place of confinement. +>>

<<+ (2) a person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both. +>>

<<+ (e)(1) This subsection does not apply to an alcoholic beverage delivered or possessed in a manner authorized by the managing official. +>>

<<+ (2)(i) A person may not deliver an alcoholic beverage to a person detained or confined in a place of confinement. +>>

<<+ (ii) A person may not possess an alcoholic beverage with intent to deliver to a person detained or confined in a place of confinement. +>>

<<+ (3) a person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both. +>>

<<+ (f)(1)(i) A person may not deliver a controlled dangerous substance to a person detained or confined in a place of confinement. +>>

<<+ (ii) A person may not possess a controlled dangerous substance with intent to deliver to a person detained or confined in a place of confinement. +>>

<<+ (2) a person who violates this subsection is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 3 years or both. +>>

<<+ (g) A sentence imposed under this section may be separate from and consecutive to or concurrent with a sentence for any offense based on the act establishing the offense under this section. +>>

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section is based on former Art. 27, s 122A.

<< MD CRIMES & PUNISH s 1022 >>

<< MD CODE 1957, Art. 27, s 139 >>

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&lt;&lt;+ 139. +&gt;&gt;

<<+ (a) A sentence imposed for a violation of s 137 or s 137a of this subheading: +>>

<<+ (1) shall be consecutive to any term of confinement being served or to be served at the time of the escape; +>>

<<+ (2) may not be suspended; and +>>

<<+ (3) may include the entry of a judgment for all reasonable expenses incurred in returning the person to the place of confinement, provided that the defendant has received timely notice of and an opportunity to contest the accuracy of the expenses allegedly owed. +>>

<<+ (b) Voluntary intoxication is not a defense to a charge of escape under this subheading. +>>

&lt;&lt; MD CRIMES &amp; PUNISH s 265 &gt;&gt;

&lt;&lt; MD CODE 1957, Art. 27, s 372 &gt;&gt;

372.

"Machine gun" as used in this subtitle, means a weapon, of any description, by whatever name known, loaded or unloaded, from which more than one shot or bullet may be automatically discharged from a magazine, by a single function of the firing device.

"Crime of violence" applies to and includes any of the following crimes or an attempt to commit any of the same, namely, murder of any degree, manslaughter, kidnapping, rape in any degree, assault in the first degree, robbery, burglary in any degree, <<+ escape in the first degree +>>, and theft.

"Person" applies to and includes firm, partnership, association, or corporation.

&lt;&lt; MD CRIMES &amp; PUNISH s 23 &gt;&gt;

&lt;&lt; MD CODE 1957, Art. 27, s 410 &gt;&gt;

410.

All murder which shall be committed in the perpetration of, or attempt to perpetrate, any rape in any degree, sexual offense in the first or second degree, sodomy, mayhem, robbery, carjacking or armed carjacking, burglary in the first, second, or third degree, a violation of s 139C of this article concerning destructive devices, kidnapping as defined in ss 337 and 338 of this article, or in the escape <<+ in the first degree +>> or attempt to escape <<+ in the first degree +>> from the Patuxent Institution, any institution or facility under the jurisdiction of the Division of Correction or the Division of Pretrial Detention and Services, or from any jail or penal institution in any of the counties of this State, shall be murder in the first degree.

&lt;&lt; MD CRIMES &amp; PUNISH s 658 &gt;&gt;

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<< MD CODE 1957, Art. 27, s 413 >>

413.

(g) If the court or jury finds, beyond a reasonable doubt, that one or more of these aggravating circumstances exist, it shall then consider whether, based upon a preponderance of the evidence, any of the following mitigating circumstances exist:

(1) The defendant has not previously (i) been found guilty of a crime of violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of violence; or (iii) had a judgment of probation on stay of entry of judgment entered on a charge of a crime of violence. As used in this paragraph, "crime of violence" means abduction, arson in the first degree, escape <<+ in the first degree +>>, kidnapping, manslaughter, except involuntary manslaughter, mayhem, murder, robbery, carjacking or armed carjacking, or rape or sexual offense in the first or second degree, or an attempt to commit any of these offenses, or the use of a handgun in the commission of a felony or another crime of violence.

<< MD CRIMES & PUNISH s 887 >>

<< MD CODE 1957, Art. 27, s 441 >>

441.

(e) "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;
- (10) Mayhem as previously proscribed under former s 384 of this article;
- (11) Murder in the first or second degree;
- (12) Rape in the first or second degree;
- (13) Robbery;
- (14) Robbery with a dangerous or deadly weapon;
- (15) Sexual offense in the first, second, or third degree;
- (16) An attempt to commit any of the aforesaid offenses; or
- (17) Assault with intent to commit any of the aforesaid offenses or any offense punishable by imprisonment for more than 1 year.

Article 88B--Department of State Police

<< MD STATE POLICE s 17 >>

<< MD CODE 1957, Art. 88B, s 26 >>

26.

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The Department may agree with the Division of Correction or the person having charge of any jail for the performance of labor and services, by any prisoner under sentence, in and about the facilities of the Department. Such agreement shall include provisions for the custody, supervision, transportation, and subsistence of such prisoners. Escape of any prisoner assigned to perform labor and services for the Department pursuant to this section shall be deemed a violation of <<- s 139 of ->> Article 27, <<+ s 137 of the code +>> .

## Article--Correctional Services

## &lt;&lt; MD CORR SERV s 3-305 &gt;&gt;

3-305.

(c)(2) An inmate who escapes while on leave under this section is subject to the penalties established under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 3-409 &gt;&gt;

3-409.

(c) An inmate who <<- willfully ->> <<+ knowingly +>> violates s 3-406 of this subtitle is guilty of escape and on conviction is subject to the penalties established under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 3-803 &gt;&gt;

3-803.

(b)(2) An inmate who <<+ knowingly +>> violates paragraph (1) of this subsection is guilty of <<- a felony ->> <<+ escape +>> and on conviction is subject to the penalties established under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 3-807 &gt;&gt;

3-807.

(i)(2) An inmate who <<+ knowingly +>> violates paragraph (1) of this subsection is guilty of <<- a misdemeanor ->> <<+ escape +>> and on conviction is subject to the penalties established under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 3-808 &gt;&gt;

3-808.

(d) The failure of an inmate to comply with the terms of the inmate's authorization for compassionate leave is a violation of Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 3-811 &gt;&gt;

3-811.

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(c) The failure of an inmate to comply with the terms of the authorization for family leave is a violation of Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 9-602 &gt;&gt;

9-602.

(e) An inmate who escapes while temporarily removed under this section is guilty of escape and subject to the penalties established under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 11-319 &gt;&gt;

11-319.

(a) (5) An inmate who escapes while on leave under this section is subject to the penalties established under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

## &lt;&lt; MD CORR SERV s 11-702 &gt;&gt;

11-702.

(b) (8) An inmate who knowingly <<- or willfully ->> violates a term or a condition of the home detention program <<- : ->>

<<- (i) is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000, imprisonment not exceeding 1 year, or both; and ->>

<<- (ii) ->> is subject to <<+ the penalties provided under s 11-726 of this subtitle and +>> other disciplinary action provided by law.

## &lt;&lt; MD CORR SERV s 11-703 &gt;&gt;

11-703.

(d) (5) A participant who <<+ knowingly +>> violates a regulation adopted under this section:

(iii) <<- for willful failure to return to the assigned local correctional facility in violation of a regulation adopted under this section, is subject to prosecution under Article 27, s 139 of the Code ->> <<+ is subject to the provisions of s 11-726 of this subtitle. +>>

(f) <<- (4) An inmate who escapes while released from actual confinement under a farm labor plan is guilty of a misdemeanor and on conviction is subject to the penalties provided in Article 27, s 139 of the Code. ->>

## &lt;&lt; MD CORR SERV s 11-705 &gt;&gt;

11-705.

<<- (h) An inmate who violates a term of leave granted under this section is subject to the penalties established under Article 27, s 139 of the Code. ->>

<<- (i) ->> <<+ (h) +>> (1) The Administrator shall collect each participant's total earnings, less payroll deductions.

(2) From the participant's earnings, the Administrator:

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(i) may pay the reasonable cost to the County of providing food, lodging, and clothing for the participant;

(ii) may make court-ordered payments for dependents;

(iii) may pay court-ordered costs, fines, and restitution;

(iv) if ordered by the court, may reimburse the State for the court-appointed counsel; and

(v) if ordered by the court, may reimburse the State for the services of the public defender.

(3) Any balance that remains after payments are made under paragraph (2) of this subsection:

(i) shall be credited to an account held by the Administrator for the participant; and

(ii) if the Administrator approves, shall be disposed of as requested by the participant.

(4) Any balance remaining in the participant's account when the participant is released from the detention facility shall be paid to the participant.

<<- (j) ->> <<+ (i) A +>> participant employed in the community under this section is not an agent or employee of Baltimore County, the Administrator, any judicial officer, or any other public officer of the County or State.

<<- (k) ->> <<+ (j) +>> The Administrator may charge a participant a reasonable fee in an amount not to exceed the actual costs incurred by the county for food, travel, and other expenses related to the participant's participation in the work release program.

<<- (l) ->> <<+ (k) +>> (1) The Administrator may establish and administer a home detention program.

(2) If the Administrator establishes a home detention program, the Administrator:

(i) shall establish eligibility criteria for participation in the program; and

(ii) for each participant, shall establish a home detention plan that includes the terms and conditions of the home detention.

<<- (m) ->> <<+ (l) +>> (1) Participation in the home detention program is a privilege authorized by court.

(2) This section does not create a right to participate in the home detention program or to remain in the program after the participant has been suspended or removed from the program.

<<- (n) ->> <<+ (m) +>> The Administrator may recommend to a court that an individual participate in the home detention program if:

(1) the individual has applied to participate in the program;

(2) except for a violation of the Transportation Article or other traffic law or ordinance for which a penalty of incarceration is not authorized, the individual has no other charges pending in any municipal corporation, county, or state; and

(3) the Administrator has approved the application.

<<- (o) ->> <<+ (n) +>> If the Administrator recommends participation in the home detention program, a court may authorize an individual to participate in the program:

(1) after imposing a sentence; or

(2) at any time during the individual's confinement.

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<<- (p) ->> <<+ (o) +>> (1) The Administrator may suspend or remove a participant from the home detention program:

- (i) at any time;
- (ii) without prior approval from the court; and
- (iii) for any reason that the Administrator determines.

(2) The Administrator shall notify the court within 15 days after the Administrator suspends or removes a participant from the home detention program.

<<- (q) ->> <<+ (p) A +>> participant is not eligible for the home detention program if the participant:

- (1) is serving a sentence for a crime of violence; or
- (2) has been found guilty of:
  - (i) child abuse under Article 27, s 35C of the Code; or
  - (ii) escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

<<- (r) ->> <<+ (q) +>> The Administrator may charge a reasonable fee for the actual cost of electronic supervision and other administrative costs of the program.

<<- (s) ->> <<+ (r) +>> The Administrator may adopt regulations to carry out this section.

<< MD CORR SERV s 11-706 >>

11-706.

(b) <<- (8) The failure of an inmate to comply with the terms of the inmate's authorization for leave is a violation of Article 27, s 139 of the Code. ->>

<< MD CORR SERV s 11-708 >>

11-708.

(b) (8) <<- (i) ->> An inmate who violates a condition or provision of trust that a court, the Sheriff, or Sheriff's designee establishes is subject to:

- <<- 1. ->> <<+ (i) +>> removal from the work release program; and
- <<- 2. ->> <<+ (ii) +>> cancellation of any earned diminution of the inmate's term of confinement.

<<- (ii) A violation of a term of leave under this section is a violation of Article 27, s 139 of the Code. ->>

(c) (4) An inmate is not eligible for the home detention program if the inmate:

- (ii) has been found guilty of the crime of:
  - 2. escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

<< MD CORR SERV s 11-709 >>

11-709.

(b) (4) An inmate is not eligible for the home detention program if the inmate:

- (ii) has been found guilty of the crime of:
  - 2. escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

<< MD CORR SERV s 11-711 >>

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## Ch. 422, s 3

11-711.

(h) <<- (2) The failure of an inmate to comply with the terms of the inmate's authorization for leave is a violation of Article 27, s 139 of the Code. ->>

<<- (3) ->> (2) If a condition that a court imposes on an inmate is inconsistent with a regulation adopted under this section, the condition imposed by the court controls as to that inmate.

<<- (4) ->> (3) If an inmate violates a trust or a condition that the court or the County Department of Corrections establishes, the County Department of Corrections shall notify the sentencing court in writing of the violation.

&lt;&lt; MD CORR SERV s 11-712 &gt;&gt;

11-712.

(b)(4) An individual is eligible for the Pretrial Release Program if the individual:

(iii) is not in detention for:

2. the crime of escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

(c)(6) <<- (i) ->> If an inmate violates a trust or a condition that a judge or the Sheriff establishes for conduct or employment, after an administrative hearing that upholds the violation, the inmate is subject to:

<<- 1. ->> <<+ (i) +>> removal from the work release program; and

<<- 2. ->> <<+ (ii) +>> cancellation of any earned diminution of the inmate's term of confinement.

<<- (ii) The failure of an inmate to comply with the terms of the inmate's authorization for leave is a violation of Article 27, s 139 of the Code. ->>

(d) (4) An inmate is not eligible for the home detention program if the inmate:

(ii) has been found guilty of the crime of:

2. escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

&lt;&lt; MD CORR SERV s 11-714 &gt;&gt;

11-714.

(c) <<- (6) The failure of an inmate to comply with the terms of the inmate's authorization for leave is a violation of Article 27, s 139 of the Code. ->>

(d) (4) An inmate is not eligible for the home detention program if the inmate:

(ii) has been found guilty of the crime of:

2. escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

&lt;&lt; MD CORR SERV s 11-715 &gt;&gt;

11-715.

(g) <<- (1) ->> An inmate who violates a condition or provision of trust that the sentencing judge or the Department establishes is subject to:

<<- (i) ->> <<+ (1) +>> removal from the work release program; and

<<- (ii) ->> <<+ (2) +>> cancellation of any earned diminution of the inmate's term of confinement.

<<- (2) A violation of a term of leave under this section is a violation of Article 27, s 139 of the Code. ->>

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## &lt;&lt; MD CORR SERV s 11-716 &gt;&gt;

11-716.

(h) <<- (2) The failure of an inmate to comply with the terms of the inmate's authorization for leave is a violation of Article 27, s 139 of the Code. ->>

<<- (3) ->> <<+ (2) +>> If a condition that a court imposes on an inmate is inconsistent with a regulation adopted under this section, the condition imposed by the court controls as to that inmate.

<<- (4) ->> <<+ (3) +>> If an inmate violates a trust or a condition that a court or the detention center establishes, the Kent County Detention Center shall notify the sentencing court in writing of the violation.

(k) <<- (2) The failure of an inmate to comply with the terms of an authorization for compassionate leave is a violation under subsection (h) of this section. ->>

<<- (3) ->> <<+ (2) +>> An inmate who is granted compassionate leave may be required to reimburse the Kent County Detention Center for any expenses that the detention center incurs in granting the leave.

<<- (4) ->> <<+ (3) +>> The warden shall adopt regulations necessary to carry out this subsection.

## &lt;&lt; MD CORR SERV s 11-717 &gt;&gt;

11-717.

(f) <<- (2) The failure of an inmate to comply with the terms of the inmate's authorization for leave is a violation of Article 27, s 139 of the Code. ->>

<<- (3) ->> (2) If an inmate violates a condition or a term of the program and the Director or the Director's designee removes the inmate from the program because of the violation, a judge of the committing court may redesignate the Division of Correction as the agency of custody for the remaining term of the inmate's confinement.

## &lt;&lt; MD CORR SERV s 11-723 &gt;&gt;

11-723.

(b) (4) An inmate is not eligible for the home detention program if the inmate:

(ii) has been found guilty of the crime of:

2. escape under Article 27, <<- s 139 ->> <<+ s 137 +>> of the Code.

(8) An inmate who knowingly <<- or willfully ->> violates a term or a condition of the home detention program <<- : ->>

<<- (i) is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000, imprisonment not exceeding 1 year, or both; and ->>

<<- (ii) ->> is subject to <<+ the penalties provided under s 11-726 of this subtitle and to +>> other disciplinary action provided by law.

## &lt;&lt; MD CORR SERV s 11-724 &gt;&gt;

11-724.

(h) <<- (2) The failure of an inmate to comply with the terms of the inmate's

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## Ch. 422, s 3

authorization for leave is a violation of Article 27, s 139 of the Code. ->>  
<<- (3) ->> <<+ (2) +>> If a condition that a court imposes on an inmate is inconsistent with a regulation adopted under this section, the condition imposed by the court controls as to that inmate.

<<- (4) ->> <<+ (3) +>> If an inmate violates a trust or a condition that a court or the County Department of Corrections establishes, the County Department of Corrections shall notify the sentencing court in writing of the violation.

(i)(2) An inmate who violates the terms of an authorization for compassionate leave is subject to the sanctions specified in subsection <<- (h)(1) and (2) ->> <<+ (h)(1) +>> of this section <<+ and s 11-726 of this subtitle +>> .

<< MD CORR SERV s 11-726 >>

<<+ 11-726. +>>

<<+ (a) An individual who knowingly violates a restriction on movement imposed as a condition of leave, work release, or a home detention order or agreement under this subtitle is guilty of escape as provided in article 27, ss 136 through 139 of the code. +>>

<<+ (b) An individual who knowingly violates any other condition of leave, work release, or a home detention order or agreement imposed under this subtitle 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. +>>

SECTION 4. AND BE IT FURTHER ENACTED, That the Committee Notes contained in this Act are not law.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 1999.

Approved May 13, 1999

MD LEGIS 422 (1999)  
END OF DOCUMENT

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**MASSACHUSETTS GENERAL LAWS ANNOTATED  
PART I. ADMINISTRATION OF THE GOVERNMENT  
TITLE XX. PUBLIC SAFETY AND GOOD ORDER  
CHAPTER 140. LICENSES  
SALE OF FIREARMS**

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Current through 1999 1st Annual Sess., Ch. 26 apv. 6/28/1999

§ 129. Fictitious name or address and other false information; penalties

Whoever in purchasing, renting or hiring a firearm, rifle, shotgun or machine gun, or in making application for any form of license or permit issued in connection therewith, or in requesting that work be done by a gunsmith, gives a false or fictitious name or address or knowingly offers or gives false information concerning the date or place of birth, his citizenship status, occupation, or criminal record, shall for the first offense be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than one year, or both; and for a second or subsequent offense, shall be punished by imprisonment for not less than two and one half years nor more than five years in the state prison.

**CREDIT(S)**

1991 Main Volume

Amended by St.1957, c. 688, § 12; St.1968, c. 737, § 6; St.1973, c. 158.

**HISTORICAL AND STATUTORY NOTES**

1991 Main Volume

St.1911, c. 495, § 10. St.1925, c. 284, § 3.

St.1957, c. 688, § 12, approved Aug. 21, 1957, inserted ", rifle, shotgun or machine gun, or in requesting that work be done by a gunsmith".

St.1968, c. 737, § 6, approved July 20, 1968, rewrote the section, which prior thereto read:

"Any person who in purchasing, renting or hiring a firearm, rifle, shotgun or machine gun, or in requesting that work be done by a gunsmith gives a false or fictitious name or address shall be punished by a fine of not less than twenty-five nor more than one hundred dollars or by imprisonment for not more than one year, or both."

St.1973, c. 158, approved April 9, 1973, substituted "not less than five hundred nor more than one thousand dollars" for "not more than five hundred dollars".

M.G.L.A. 140 § 129

MA ST 140 § 129

END OF DOCUMENT

**MICHIGAN COMPILED LAWS ANNOTATED  
CHAPTER 750. MICHIGAN PENAL CODE  
THE MICHIGAN PENAL CODE  
CHAPTER XXXVII. FIREARMS**

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Current through P.A. 1999, No. 25 of the 1999 Regular Session, 90th Legislature

750.232a. Purchase of pistols; license requirements, application; providing false statements or identification, punishment

Sec. 232a. (1) Except as provided in subsection (2), a person who obtains a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927, as amended, being section 28.422 of the Michigan Compiled Laws, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

(2) Subsection (1) does not apply to a person who obtained a pistol in violation of section 2 of Act No. 372 of the Public Acts of 1927 before the effective date of the 1990 amendatory act that added this subsection, who has not been convicted of that violation, and who obtains a license as required under section 2 of Act No. 372 of the Public Acts of 1927 within 90 days after the effective date of the 1990 amendatory act that added this subsection.

(3) A person who intentionally makes a material false statement on an application for a license to purchase a pistol under section 2 of Act No. 372 of the Public Acts of 1927, as amended, is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than \$2,000.00, or both.

(4) A person who uses or attempts to use false identification or the identification of another person to purchase a firearm is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than \$100.00, or both.

**CREDIT(S)**

1999 Electronic Update

Amended by P.A.1990, No. 321, § 1, Eff. March 28, 1991.

**HISTORICAL AND STATUTORY NOTES**

1999 Electronic Update

1990 Legislation

The 1990 amendment rewrote this section.

For contingent effect provisions of P.A.1990, No. 321, see the Historical and Statutory Notes following § 750.223.

1991 Main Volume

Source:

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MI ST 750.232a

Page 2

P.A.1931, No. 328, § 232a, added by P.A.1943, No. 54, Eff. July 30, 1943.  
C.L.1948, § 750.232a.  
C.L.1970, § 750.232a.

M. C. L. A. 750.232a

MI ST 750.232a

END OF DOCUMENT

MINNESOTA STATUTES ANNOTATED  
CRIMES, CRIMINALS  
CHAPTER 624. CRIMES, OTHER PROVISIONS  
MISCELLANEOUS

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Current through End of 1998 1st Sp. Sess.

624.7131. Transferee permit; penalty

**Subdivision 1. Information.** Any person may apply for a transferee permit by providing the following information in writing to the chief of police of an organized full time police department of the municipality in which the person resides or to the county sheriff if there is no such local chief of police:

(a) the name, residence, telephone number and driver's license number or nonqualification certificate number, if any, of the proposed transferee;

(b) the sex, date of birth, height, weight and color of eyes, and distinguishing physical characteristics, if any, of the proposed transferee;

(c) a statement that the proposed transferee authorizes the release to the local police authority of commitment information about the proposed transferee maintained by the commissioner of human services, to the extent that the information relates to the proposed transferee's eligibility to possess a pistol or semiautomatic military-style assault weapon under section 624.713, subdivision 1; and

(d) a statement by the proposed transferee that the proposed transferee is not prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon.

The statements shall be signed and dated by the person applying for a permit. At the time of application, the local police authority shall provide the applicant with a dated receipt for the application. The statement under clause (c) must comply with any applicable requirements of Code of Federal Regulations, title 42, sections 2.31 to 2.35, with respect to consent to disclosure of alcohol or drug abuse patient records.

**Subd. 2. Investigation.** The chief of police or sheriff shall check criminal histories, records and warrant information relating to the applicant through the Minnesota crime information system and the national criminal record repository and shall make a reasonable effort to check other available state and local record keeping systems. The chief of police or sheriff shall obtain commitment information from the commissioner of human services as provided in section 245.041.

**Subd. 3. Forms.** Chiefs of police and sheriffs shall make transferee permit application forms available throughout the community. There shall be no charge for forms, reports, investigations, notifications, waivers or any other act performed or materials provided by a government employee or agency in connection with application for or issuance of a transferee permit.

**Subd. 4. Grounds for disqualification.** A determination by the chief of police or sheriff that the applicant is prohibited by section 624.713 from possessing a pistol or semiautomatic military-style assault weapon shall be the only basis for refusal to grant a transferee permit.

**Subd. 5. Granting of permits.** The chief of police or sheriff shall issue a transferee permit or

deny the application within seven days of application for the permit. The chief of police or sheriff shall provide an applicant with written notification of a denial and the specific reason for the denial. The permits and their renewal shall be granted free of charge.

**Subd. 6. Permits valid statewide.** Transferee permits issued pursuant to this section are valid statewide and shall expire after one year. A transferee permit may be renewed in the same manner and subject to the same provisions by which the original permit was obtained, except that all renewed permits must comply with the standards adopted by the commissioner of public safety under section 624.7151. Permits issued pursuant to this section are not transferable. A person who transfers a permit in violation of this subdivision is guilty of a misdemeanor.

**Subd. 7. Permit voided.** The transferee permit shall be void at the time that the holder becomes prohibited from possessing a pistol under section 624.713, in which event the holder shall return the permit within five days to the issuing authority. Failure of the holder to return the permit within the five days is a misdemeanor unless the court finds that the circumstances or the physical or mental condition of the permit holder prevented the holder from complying with the return requirement.

**Subd. 8. Hearing upon denial.** Any person aggrieved by denial of a transferee permit may appeal the denial to the district court having jurisdiction over the county or municipality in which the denial occurred.

**Subd. 9. Permit to carry.** A valid permit to carry issued pursuant to section 624.714 constitutes a transferee permit for the purposes of this section and section 624.7132.

**Subd. 10. Transfer report not required.** A person who transfers a pistol or semiautomatic military-style assault weapon to a person exhibiting a valid transferee permit issued pursuant to this section or a valid permit to carry issued pursuant to section 624.714 is not required to file a transfer report pursuant to section 624.7132, subdivision 1.

**Subd. 11. Penalty.** A person who makes a false statement in order to obtain a transferee permit knowing or having reason to know the statement is false is guilty of a gross misdemeanor.

**Subd. 12. Local regulation.** This section shall be construed to supersede municipal or county regulation of the issuance of transferee permits.

#### CREDIT(S)

1987 Main Volume

Laws 1977, c. 349, § 4. Amended by Laws 1986, c. 444. 1999 Electronic Update

Amended by Laws 1992, c. 571, art. 15, §§ 5, 6; Laws 1993, c. 326, art. 1, §§ 28 to 30; Laws 1994, c. 618, art. 1, §§ 41, 42; Laws 1994, c. 636, art. 3, §§ 29 to 31; Laws 1998, c. 254, art. 2, § 67.

#### HISTORICAL AND STATUTORY NOTES

1999 Electronic Update

1992 Legislation

The 1992 amendment in subd. 1 in cl. (b) inserted the reference to "distinguishing physical characteristics" of the proposed transferee; and in subd. 6 inserted the exception for renewed

permits.

#### 1993 Legislation

The 1993 amendment in subd. 1 in the opening language deleted "pistol" preceding "transferee permit" and in par. (c) inserted the alternative reference to semiautomatic military-style assault weapon; in subd. 4 inserted the alternative reference to semiautomatic military-style assault weapon; and in subd. 10 inserted the alternative reference to semiautomatic military-style assault weapon and the reference to a licensed peace officer exhibiting a valid peace officer identification.

Laws 1993, c. 326, art. 1, § 35, provides in part that §§ 28 to 30 (amending subds. 1, 4, and 10) are effective August 1, 1993, and apply to crimes committed on or after that date.

#### 1994 Legislation

Laws 1994, c. 618, art. 1, §§ 41 and 42, in subd. 1, added cl. (c), relating to the release of commitment information about the proposed transferee, redesignated former cl. (c) as cl. (d), and near the end of the subdivision, required the permit applicant to sign and date the statements and added a provision requiring the statement under cl. (c) to comply with any applicable Code of Federal Regulations; and in subd. 2, added a provision requiring the chief of police or sheriff to obtain commitment information from the commissioner of human services.

Laws 1994, c. 636, art. 3, §§ 29 to 31, in subd. 1, made the same changes as Laws 1994, c. 618, art. 1, § 41; in subd. 2, made the same changes as Laws 1994, c. 618, art. 1, § 42, and also inserted a provision requiring the chief of police or sheriff to use the national criminal record repository and any other available record keeping system to check for information on an applicant; and in subd. 10, deleted licensed peace officers from the list a person could transfer a weapon to and not have to file a transfer report.

Laws 1994, c. 636, art. 3, § 47, provides in part that §§ 29 to 31 (amending subds. 1, 2, and 10) are effective August 1, 1994, and apply to crimes committed on or after that date.

#### 1998 Legislation

Laws 1998, c. 254, was a revisor's instruction which, by its terms, corrected erroneous, ambiguous, and omitted text and obsolete references; eliminated certain redundant, conflicting, unconstitutional, and superseded provisions; and made miscellaneous technical corrections to statutes and other laws.

M. S. A. § 624.7131

MN ST § 624.7131

END OF DOCUMENT

Citation  
NH ST s 159:11  
R.S.A. s 159:11

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NEW HAMPSHIRE STATUTES ANNOTATED  
TITLE XII. PUBLIC SAFETY AND WELFARE  
CHAPTER 159. PISTOLS AND REVOLVERS

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Current through End of 1998 Reg. Sess.

s 159:11 False Information.

Any person who, in purchasing or otherwise securing delivery of a pistol, revolver, or other firearm, gives false information or offers false evidence of his identity, shall be guilty of a misdemeanor for the first offense, and be guilty of a class B felony for any subsequent offense.

R. S. A. s 159:11  
NH ST s 159:11  
END OF DOCUMENT

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Citation  
ND ST 62.1-03-04  
NDCC, 62.1-03-04

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ND-ST

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NORTH DAKOTA CENTURY CODE  
TITLE 62.1. WEAPONS  
CHAPTER 62.1-03. HANDGUNS

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Current through End of 1999 Reg. Sess.

62.1-03-04 False information prohibited.

No person, in purchasing or otherwise securing delivery of a handgun or in applying for a license to carry the handgun concealed, may give false information or offer false evidence of the person's identity.

Source: S.L. 1985, ch. 683, s 5.

NDCC 62.1-03-04  
ND ST 62.1-03-04  
END OF DOCUMENT

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Citation  
OR ST s 166.416  
O.R.S. s 166.416

Rank(R)  
R 1 OF 1

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OR-ST

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1998 OREGON REVISED STATUTES  
TITLE 16. CRIMES AND PUNISHMENTS  
CHAPTER 166. OFFENSES AGAINST PUBLIC ORDER; FIREARMS AND OTHER WEAPONS;  
RACKETEERING  
SALE OR TRANSFER OF FIREARMS  
1998 Oregon Revised Statutes Copyright (c) 1998 by State of  
Oregon Legislative Counsel Committee  
Current through End of 1997 Reg. Sess. and 1998 Cumulative Supp.

166.416. Providing false information in connection with a transfer of a handgun.

(1) A person commits the crime of providing false information in connection with a transfer of a handgun if the person knowingly provides a false name or false information or presents false identification in connection with a purchase or transfer of a handgun under ORS 166.412.

(2) Providing false information in connection with a transfer of a handgun is a Class A misdemeanor.

(1995 c. 729 s 3)

O. R. S. s 166.416  
OR ST s 166.416  
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**PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES  
ANNOTATED  
PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED  
TITLE 18. CRIMES AND OFFENSES  
PART II. DEFINITION OF SPECIFIC OFFENSES  
ARTICLE G. MISCELLANEOUS OFFENSES  
CHAPTER 61. FIREARMS AND OTHER DANGEROUS ARTICLES  
SUBCHAPTER A. UNIFORM FIREARMS ACT**

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Current through End of the 1998 Reg. Sess.

§ 6116. False evidence of identity

In addition to any other penalty provided in this chapter, the furnishing of false information or offering false evidence of identity is a violation of section 4904 (relating to unsworn falsification to authorities).

**CREDIT(S)**

1983 Main Volume

1972, Dec. 6, P.L. 1482, No. 334, § 1, effective June 6, 1973. 1999 Electronic Update

Amended 1988, Dec. 19, P.L. 1275, No. 158, § 1, effective in 180 days; 1995, June 13, P.L. 1024, No. 17 (Spec. Sess. No. 1), § 8, effective in 120 days.

**HISTORICAL AND STATUTORY NOTES**

1999 Electronic Update

**1988 Legislation**

The 1988 amendment provided that the furnishing of false information or offering false evidence of identity is a violation of section 4904.

1995 Legislation

The 1995 amendment deleted the first sentence, which read: "No person shall, in purchasing or otherwise securing delivery of a firearm or in applying for a license to carry the same, give false information or offer false evidence of his identity." and, at the beginning of the second sentence, inserted "In addition to any other penalty provided in this chapter,".

1983 Main Volume

**Prior Laws:**

- 1968, July 31, P.L. 802, § 1.
- 1968, July 30, P.L. 690, § 1.
- 1963, Aug. 13, P.L. 660, No. 346, § 1.
- 1961, Aug. 4, P.L. 921, § 1.
- 1953, July 27, P.L. 627, § 1.

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PA ST 18 Pa.C.S.A. § 6116

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1943, May 21, P.L. 485, § 1.

1943, May 21, P.L. 306, § 1.

1939, June 24, P.L. 872, § 628 (18 P.S. § 4628).

1931, June 11, P.L. 497, §§ 1 to 21.

18 Pa.C.S.A. § 6116

PA ST 18 Pa.C.S.A. § 6116

END OF DOCUMENT

**GENERAL LAWS OF RHODE ISLAND ANNOTATED, 1956**  
**TITLE 11. CRIMINAL OFFENSES**  
**CHAPTER 47. WEAPONS**

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Current through End of 1998 Reg. Sess.

11-47-23 False information in securing firearm or license.

No person shall, in purchasing, or otherwise securing delivery of a shotgun, rifle, pistol, or revolver, or in applying for a license to carry it, give false information or offer false evidence of his or her identity. Violation of the provisions of this section may be punished by imprisonment for not more than five (5) years.

History of Section. P.L. 1927, ch. 1025, § 11; G.L. 1938, ch. 404, § 11; G.L. 1956, § 11-47-17; G.L., § 11-47-23; P.L. 1959, ch. 75, § 1; P.L. 1990, ch. 37, § 2; P.L. 1990, ch. 300, § 1.

Reenactments.

The 1994 Reenactment (P.L. 1994, ch. 134, § 1) made minor punctuation and stylistic changes throughout the section.

Gen. Laws, 1956, § 11-47-23

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REENACTMENT OF 1994

RI ST § 11-47-23

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| SD ST s 23-7-12 | R 1 OF 1 | SD-ST    | Page |
| SDCL s 23-7-12  |          |          |      |

SOUTH DAKOTA CODIFIED LAWS  
TITLE 23. LAW ENFORCEMENT  
CHAPTER 23-7. FIREARMS CONTROL

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Current through End of 1999 Reg. Sess.

23-7-12 False information or false evidence of identity to secure pistol or permit as felony.

No person, in purchasing or otherwise securing delivery of a pistol or in applying for a permit to carry a concealed pistol, may give false information or offer false evidence of his identity. A violation of this section is a Class 6 felony.

Source: SDC 1939, ss 21.0113, 21.9901; SDCL, s 23-7-24; SL 1969, ch 89, s 2; 1972, ch 144, s 3; 1978, ch 169, s 18; 1985, ch 190, s 18.

S D C L s 23-7-12  
SD ST s 23-7-12  
END OF DOCUMENT

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Citation  
UT ST s 76-10-527  
U.C.A. 1953 s 76-10-527

Rank(R)  
R 1 OF 1

Database  
UT-ST

Mode  
Page

UTAH CODE, 1953  
TITLE 76. UTAH CRIMINAL CODE

CHAPTER 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, WELFARE AND MORALS  
PART 5. WEAPONS

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Current through End of 1999 General Session

76-10-527 Penalties.

(1) This section shall apply only to a handgun until federal law requires the background check in Section 76-10-526 to extend to other firearms at which time this section shall also apply to those firearms.

(2) A dealer is guilty of a class A misdemeanor who willfully and intentionally:

(a) requests, obtains, or seeks to obtain criminal history background information under false pretenses; or

(b) disseminates criminal history background information.

(3) A person who purchases or transfers a firearm is guilty of a felony of the third degree who willfully and intentionally makes a false statement of the information required for a criminal background check in Section 76-10-526.

(4) A dealer is guilty of a felony of the third degree if the dealer willfully and intentionally sells or transfers a firearm in violation of this part.

(5) A person is guilty of a felony of the third degree who purchases a firearm with the intent to:

(a) resell or otherwise provide a firearm to any person who is ineligible to purchase or receive from a dealer a firearm; or

(b) transport a firearm out of this state to be resold to an ineligible person.

History: C. 1953, 76-10-527, enacted by L. 1994, ch. 19, s 4; 1998, ch. 187, s 4.

U.C.A. 1953 s 76-10-527  
UT ST s 76-10-527  
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| Citation                  | Rank(R)  | Database | Mode |
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## CODE OF VIRGINIA

TITLE 18.2. CRIMES AND OFFENSES GENERALLY.  
CHAPTER 7. CRIMES INVOLVING HEALTH AND SAFETY.

## ARTICLE 7. OTHER ILLEGAL WEAPONS.

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Current through End of 1999 Regular Session.

s 18.2-308.2:2 Criminal history record information check required for the transfer of certain firearms; firearm safety information to be provided.

A. Any person purchasing from a dealer a firearm as herein defined shall consent in writing, on a form to be provided by the Department of State Police, to have the dealer obtain criminal history record information. Such form shall include only, in addition to the information required by subdivision B 1, the identical information required to be included on the firearms transaction record required by regulations administered by the Bureau of Alcohol, Tobacco and Firearms of the U.S. Department of the Treasury, except that the copies of such forms mailed or delivered to the Department of State Police shall not include any information related to the firearm purchased or transferred.

B. 1. No dealer shall sell, rent, trade or transfer from his inventory any such firearm to any other person who is a resident of Virginia until he has (i) obtained written consent as specified in subsection A, and provided the Department of State Police with the name, birth date, gender, race, and social security and/or any other identification number and the number of firearms by category intended to be sold, rented, traded or transferred and (ii) requested criminal history record information by a telephone call to the State Police and is authorized by subdivision B 2 of this section to complete the sale or other such transfer. To establish personal identification and residence in Virginia for purposes of this section, a dealer must require any prospective purchaser to present one photo-identification form issued by a governmental agency of the Commonwealth or by the United States Department of Defense, and other documentation of residence. Except where the photo-identification was issued by the United States Department of Defense, the other documentation of residence shall show an address identical to that shown on the photo-identification form, such as evidence of currently paid personal property tax or real estate tax, or a current (i) lease, (ii) utility or telephone bill, (iii) voter registration card, (iv) bank check, (v) passport, (vi) automobile registration, or (vii) hunting or fishing license; other current identification allowed as evidence of residency by Part 178.124 of Title 27 of the Code of Federal Regulations and ATF Ruling 79-7; or other documentation of residence determined to be acceptable by the Department of Criminal Justice Services, that corroborates that the prospective purchaser currently resides in Virginia. Where the photo-identification was issued by the Department of Defense, permanent orders may be used as documentation of residence. Additionally, when the photo-identification presented to a dealer by the prospective purchaser is a driver's license or other photo-identification issued by the Department of Motor Vehicles, and such identification form contains a date of issue, the dealer shall not, except for

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a renewed driver's license or other photo-identification issued by the Department of Motor Vehicles, sell or otherwise transfer a firearm to the prospective purchaser until thirty days after the date of issue of an original or duplicate driver's license unless the prospective purchaser also presents a copy of his Virginia Department of Motor Vehicles driver's record showing that the original date of issue of the driver's license was more than thirty days prior to the attempted purchase.

In addition, no dealer shall sell, rent, trade or transfer from his inventory any assault firearm to any person who is not a citizen of the United States or who is not a person lawfully admitted for permanent residence. To establish citizenship or lawful admission for a permanent residence for purposes of purchasing an assault firearm, a dealer shall require a prospective purchaser to present a certified birth certificate or a certificate of birth abroad issued by the United States State Department, a certificate of citizenship or a certificate of naturalization issued by the Immigration and Naturalization Service, an unexpired U.S. passport, a United States citizen identification card, a current voter registration card, a current selective service registration card, or an immigrant visa or other documentation of status as a person lawfully admitted for permanent residence issued by the Immigration and Naturalization Service.

Upon receipt of the request for a criminal history record information check, the State Police shall (i) review its criminal history record information to determine if the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law, (ii) inform the dealer if its record indicates that the buyer or transferee is so prohibited, and (iii) provide the dealer with a unique reference number for that inquiry.

2. The State Police shall provide its response to the requesting dealer during the dealer's call, or by return call without delay. If the criminal history record information check indicates the prospective purchaser or transferee has a criminal record or has been acquitted by reason of insanity and committed to the custody of the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, the State Police shall have until the end of the dealer's next business day to advise the dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. If not so advised by the end of the dealer's next business day, a dealer who has fulfilled the requirements of subdivision B 1 of this subsection may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or transfer. In case of electronic failure or other circumstances beyond the control of the State Police, the dealer shall be advised immediately of the reason for such delay and be given an estimate of the length of such delay. After such notification, the State Police shall, as soon as possible but in no event later than the end of the dealer's next business day, inform the requesting dealer if its records indicate the buyer or transferee is prohibited from possessing or transporting a firearm by state or federal law. A dealer who fulfills the requirements of subdivision B 1 of this subsection and is told by the State Police that a response will not be available by the end of the dealer's next business day may immediately complete the sale or transfer and shall not be deemed in violation of this section with respect to such sale or

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transfer.

3. Except as required by subsection D of s 9-192, the State Police shall not maintain records longer than thirty days, except for multiple handgun transactions for which records shall be maintained for twelve months, from any dealer's request for a criminal history record information check pertaining to a buyer or transferee who is not found to be prohibited from possessing and transporting a firearm under state or federal law. However, the log on requests made may be maintained for a period of twelve months, and such log shall consist of the name of the purchaser, the dealer identification number, the unique approval number and the transaction date.

4. On the last day of the week following the sale or transfer of any firearm, the dealer shall mail or deliver the written consent form required by subsection A to the Department of State Police. The State Police shall immediately initiate a search of all available criminal history record information to determine if the purchaser is prohibited from possessing or transporting a firearm under state or federal law. If the search discloses information indicating that the buyer or transferee is so prohibited from possessing or transporting a firearm, the State Police shall inform the chief law-enforcement officer in the jurisdiction where the sale or transfer occurred and the dealer without delay.

5. Notwithstanding any other provisions of this section, rifles and shotguns may be purchased by persons who are citizens of the United States or persons lawfully admitted for permanent residence but residents of other states under the terms of subsections A and B upon furnishing the dealer with proof of citizenship or status as a person lawfully admitted for permanent residence and one photo-identification form issued by a governmental agency of the person's state of residence and one other form of identification determined to be acceptable by the Department of Criminal Justice Services.

6. For the purposes of this subsection, the phrase "dealer's next business day" shall not include December 25.

C. No dealer shall sell, rent, trade or transfer from his inventory any firearm, other than a rifle or a shotgun, to any person who is not a resident of Virginia unless he has first obtained from the Department of State Police a report indicating that a search of all available criminal history record information has not disclosed that the person is prohibited from possessing or transporting a firearm under state or federal law. The dealer shall obtain the required report by mailing or delivering the written consent form required under subsection A to the State Police within twenty-four hours of its execution. If the dealer has complied with the provisions of this subsection and has not received the required report from the State Police within ten days from the date the written consent form was mailed to the Department of State Police, he shall not be deemed in violation of this section for thereafter completing the sale or transfer.

D. Nothing herein shall prevent a resident of this Commonwealth, at his option, from buying, renting or receiving a firearm from a dealer by obtaining a criminal history record information check through the dealer as provided in subsection C.

E. If any buyer or transferee is denied the right to purchase a firearm under this section, he may exercise his right of access to and review and correction

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of criminal history record information under s 9-192 or institute a civil action as provided in s 9-194, provided any such action is initiated within thirty days of such denial.

F. Any dealer who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information except as authorized in this section shall be guilty of a Class 2 misdemeanor.

G. For purposes of this section:

"Antique firearm" means any firearm, including those with a matchlock, flintlock, percussion cap, or similar type of ignition system, manufactured in or before 1898 and any replica of such a firearm if such replica (i) is not designed or redesigned for using rimfire or conventional center-fire fixed ammunition or (ii) uses rimfire or conventional center-fire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

"Assault firearm" means any semi-automatic center-fire rifle or pistol which expels a projectile by action of an explosion and is equipped at the time of the offense with a magazine which will hold more than twenty rounds of ammunition or designed by the manufacturer to accommodate a silencer or equipped with a folding stock.

"Dealer" means any person licensed as a dealer pursuant to 18 U.S.C. s 921 et seq.

"Firearm" means any handgun, shotgun, or rifle which expels a projectile by action of an explosion.

"Handgun" means any pistol or revolver or other firearm originally designed, made and intended to fire a projectile by means of an explosion from one or more barrels when held in one hand.

"Lawfully admitted for permanent residence" means the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.

H. The Department of Criminal Justice Services shall promulgate regulations to ensure the identity, confidentiality and security of all records and data provided by the Department of State Police pursuant to this section.

I. The provisions of this section shall not apply to (i) transactions between persons who are licensed as firearms importers or collectors, manufacturers or dealers pursuant to 18 U.S.C. s 921 et seq., (ii) purchases by or sales to any law-enforcement officer or agent of the United States, the Commonwealth or any local government, (iii) antique firearms, or (iv) transactions in any county, city or town that has a local ordinance adopted prior to January 1, 1987, governing the purchase, possession, transfer, ownership, conveyance or transportation of firearms which is more stringent than this section.

J. All licensed firearms dealers shall collect a fee of two dollars for every transaction for which a criminal history record information check is required pursuant to this section, except that a fee of five dollars shall be collected for every transaction involving an out-of-state resident. Such fee shall be transmitted to the Department of State Police by the last day of the month following the sale for deposit in a special fund for use by the State Police to

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offset the cost of conducting criminal history record information checks under the provisions of this section.

K. Any person willfully and intentionally making a materially false statement on the consent form required in subsection B or C shall be guilty of a Class 5 felony.

L. Except as provided in s 18.2-308.2:1, any dealer who willfully and intentionally sells, rents, trades or transfers a firearm in violation of this section shall be guilty of a Class 6 felony.

M. Any person who purchases a firearm with the intent to (i) resell or otherwise provide such firearm to any person who he knows or has reason to believe is ineligible to purchase or otherwise receive from a dealer a firearm for whatever reason or (ii) transport such firearm out of the Commonwealth to be resold or otherwise provided to another person who the transferor knows is ineligible to purchase or otherwise receive a firearm, shall be guilty of a Class 5 felony. However, if the violation of this subsection involves such a transfer of more than one firearm, the person shall be sentenced to a mandatory minimum term of imprisonment of five years, which shall not be suspended in whole or in part nor shall the person be eligible for parole during that period.

N. Any person who is ineligible to purchase or otherwise receive or possess a firearm in the Commonwealth who solicits, employs or assists any person in violating subsection M shall be guilty of a Class 5 felony and shall be sentenced to a mandatory minimum term of imprisonment of five years, which shall not be suspended in whole or in part nor shall the person be eligible for parole during that period.

O. All driver's licenses issued on or after July 1, 1994, shall carry a letter designation indicating whether the driver's license is an original, duplicate or renewed driver's license.

P. The Department of Education, in conjunction with the Department of Game and Inland Fisheries, shall develop a standard informational form and posted notice to be furnished to each licensed firearms dealer in the Commonwealth at no cost to the dealer. The form and notice shall provide basic information of the laws governing the purchase, possession and use of firearms by juveniles and adults.

Copies of the form shall be made available by the dealer whenever a firearm is purchased.

Every firearms dealer shall conspicuously post the written notice which shall be at least eight and one-half inches by eleven inches in size and printed in boldface type of a minimum size of ten points. A licensed firearms dealer shall not be liable for damages for injuries resulting from the discharge of a firearm purchased from the dealer if, at the time of the purchase, the dealer failed to provide the form or failed to post the written notice.

Q. Except as provided in subdivisions 1, 2 and 3 of this subsection, it shall be unlawful for any person who is not a licensed firearms dealer to purchase more than one handgun within any thirty-day period. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

1. Purchases in excess of one handgun within a thirty-day period may be made upon completion of an enhanced background check, as described herein, by special application to the Department of State Police listing the number and

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type of handguns to be purchased and transferred for lawful business or personal use, in a collector series, for collections, as a bulk purchase from estate sales and for similar purposes. Such applications shall be signed under oath by the applicant on forms provided by the Department of State Police, shall state the purpose for the purchase above the limit, and shall require satisfactory proof of residency and identity. Such application shall be in addition to the firearms sales report required by the Bureau of Alcohol, Tobacco and Firearms (ATF). The Superintendent of State Police shall promulgate regulations, pursuant to the Administrative Process Act (s 9-6.14:1 et seq.), for the implementation of an application process for purchases of handguns above the limit.

Upon being satisfied that these requirements have been met, the Department of State Police shall forthwith issue to the applicant a nontransferable certificate which shall be valid for seven days from the date of issue. The certificate shall be surrendered to the dealer by the prospective purchaser prior to the consummation of such sale and shall be kept on file at the dealer's place of business for inspection as provided in s 54.1-4201 for a period of not less than two years. Upon request of any local law-enforcement agency, and pursuant to its regulations, the Department of State Police may certify such local law-enforcement agency to serve as its agent to receive applications and, upon authorization by the Department of State Police, issue certificates forthwith pursuant to this subsection. Applications and certificates issued under this subsection shall be maintained as records as provided in subdivision 3 of subsection B. The Department of State Police shall make available to local law-enforcement agencies all records concerning certificates issued pursuant to this subsection and all records provided for in subdivision 3 of subsection B.

2. The provisions of this subsection shall not apply to:

- a. A law-enforcement agency;
- b. An agency duly authorized to perform law-enforcement duties;
- c. State and local correctional facilities;
- d. A private security company licensed to do business within the Commonwealth;
- e. The purchase of antique firearms as herein defined; or
- f. A person whose handgun is stolen or irretrievably lost who deems it essential that such handgun be replaced immediately. Such person may purchase another handgun, even if the person has previously purchased a handgun within a thirty-day period, provided (i) the person provides the firearms dealer with a copy of the official police report or a summary thereof, on forms provided by the Department of State Police, from the law-enforcement agency that took the report of the lost or stolen handgun; (ii) the official police report or summary thereof contains the name and address of the handgun owner, the description of the handgun, the location of the loss or theft, the date of the loss or theft, and the date the loss or theft was reported to the law-enforcement agency; and (iii) the date of the loss or theft as reflected on the official police report or summary thereof occurred within thirty days of the person's attempt to replace the handgun. The firearms dealer shall attach a copy of the official police report or summary thereof to the original copy of the Virginia firearms transaction report completed for the transaction and

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retain it for the period prescribed by the Department of State Police.

3. For the purposes of this subsection, "purchase" shall not include the exchange or replacement of a handgun by a seller for a handgun purchased from such seller by the same person seeking the exchange or replacement within the thirty-day period immediately preceding the date of exchange or replacement.

(1989, c. 745; 1990, cc. 594, 692; 1991, cc. 515, 525, 716; 1992, cc. 637, 872; 1993, cc. 451, 461, 486, 493, 674; 1994, c. 624; 1997, c. 341; 1998, c. 844.)

Code 1950, s 18.2-308.2:2

VA ST s 18.2-308.2:2

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