

CF 7r1536

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**By: Senators Stone, Middlebrooks, and Boozer (Committee to Revise Article 27) and  
Senator Forehand**

Introduced and read first time: January 22, 1997

Assigned to: Judicial Proceedings

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 4, 1997

Returned to second reading: March 6, 1997

Senate action: Adopted with floor amendments

Read second time: March 6, 1997

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Crimes - Explosives and Destructive Devices - Revision**

3 FOR the purpose of revising and restating the laws concerning explosives and destructive  
4 devices; repealing provisions of law concerning fire bombs and vehicles, dynamiting,  
5 fire bombs, destructive explosive devices, and pipe bombs; prohibiting a person  
6 from manufacturing, transporting, possessing, controlling, storing, selling,  
7 distributing, or using a destructive device; prohibiting a person from possessing  
8 certain materials with intent to create a destructive device; providing certain  
9 penalties; making a certain misdemeanor offense a felony; altering certain penalties  
10 for offenses relating to false statements and devices constructed to represent  
11 destructive devices; providing that a murder committed during the course of a  
12 violation concerning destructive devices is first degree murder; altering the  
13 authority of the State Fire Marshal to make warrantless arrests; authorizing the  
14 State Fire Marshal to investigate destructive device offenses and to make arrests for  
15 these offenses; prohibiting bail for persons charged with a destructive device offense  
16 under certain circumstances; allowing the interception of wire, oral, or electronic  
17 communications concerning destructive device offenses under certain  
18 circumstances; making stylistic, conforming, and substantive changes to provisions  
19 that include references to explosives and destructive devices; providing that this Act  
20 does not apply to certain persons under certain circumstances; providing that  
21 certain Committee Notes and catchlines contained in this Act are not law; defining  
22 certain terms; and generally relating to explosives and destructive devices.

23 BY repealing and reenacting, with amendments,

2

1 Article 27 - Crimes and Punishments  
2 Section 33, 111B, 151A, 151C, 410, 594B(i), and 616 1/2(c) and (d)  
3 Annotated Code of Maryland  
4 (1996 Replacement Volume)

5 BY repealing

6 Article 27 - Crimes and Punishments  
7 Section 119 and 139A through 139C and the subheading "Explosives"  
8 Annotated Code of Maryland  
9 (1996 Replacement Volume)

10 BY adding to

11 Article 27 - Crimes and Punishments  
12 Section 139A through 139D, to be under the new subheading "Destructive Devices"  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume)

15 BY repealing and reenacting, with amendments,

16 Article 38A - Fires and Investigations  
17 Section 8(g)  
18 Annotated Code of Maryland  
19 (1993 Replacement Volume and 1996 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article 38A - Fires and Investigations  
22 Section 26(1)  
23 Annotated Code of Maryland  
24 (1993 Replacement Volume and 1996 Supplement)

25 BY repealing and reenacting, with amendments,

26 Article - Courts and Judicial Proceedings  
27 Section 10-402(c)(2) and 10-406  
28 Annotated Code of Maryland  
29 (1995 Replacement Volume and 1996 Supplement)

30 BY repealing and reenacting, with amendments,

31 Article - State Government  
32 Section 2-1702(e)(2)  
33 Annotated Code of Maryland  
34 (1995 Replacement Volume and 1996 Supplement)

35 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

36 MARYLAND, That the Laws of Maryland read as follows:

3

1 **Article 27 - Crimes and Punishments**

2 33.

3 (a) A person who commits burglary in the first, second, or third degree and who  
 4 then and there opens or attempts to open any vault, safe, or other secure repository by  
 5 the use of [an explosive] A DESTRUCTIVE DEVICE, AS DEFINED IN § 139A OF THIS  
 6 ARTICLE, is guilty of the felony of burglary with explosives and on conviction is subject to  
 7 imprisonment for not more than 20 years.

8 (b) A sentence that is imposed for a violation of this section may be imposed  
 9 separate from and consecutive to or concurrent with a sentence for any other offense  
 10 based on the act or acts establishing the violation.

11 111B.

12 Any person who willfully throws, shoots or propels a rock, stone, brick, or a piece of  
 13 iron, steel or other like metal, or any deadly or dangerous missile[, or fire bomb,] at or  
 14 into a vehicle or instrumentality of transportation that is occupied by one or more persons  
 15 is guilty of a misdemeanor, and upon conviction shall be sentenced to pay a fine not  
 16 exceeding five hundred dollars (\$500.00), or to undergo imprisonment not exceeding one  
 17 (1) year or both, at the discretion of the court.

18 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This revision  
 19 strikes the term "fire bomb" from this section. A fire bombing as previously proscribed  
 20 under this section is punishable under Article 27, §§ 139C and 139D.

21 [119.

22 Every person, his aiders or abettors, who shall wilfully and maliciously dynamite,  
 23 blow up or otherwise, by means of any explosives as that term is defined in § 26(1) of  
 24 Article 38A of this Code, wreck, destroy, injure or damage, in whole or in part, or attempt  
 25 so to do, or conspire or connive thereat, any property whether real or personal, public or  
 26 private, shall be guilty of a felony, and shall be subject, in the discretion of the court, to  
 27 imprisonment for life or for a definite period not exceeding twenty years, or to a fine not  
 28 exceeding twenty thousand dollars, or to both fine and imprisonment, in the discretion of  
 29 the court.]

30 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): See Article 27,  
 31 § 139C for current prohibitions on explosives.

32 [Explosives]

33 [139A.

34 (a) It is unlawful for any person to manufacture, assemble, use or possess in this  
 35 State, any device commonly known as a firebomb or a Molotov cocktail. Such a device is  
 36 defined as any container which is filled with an incendiary mixture or flammable material  
 37 or liquid, and is designed and intended to be used as a destructive device and whose  
 38 ignition is caused by flame, friction, concussion, detonation or other method which will  
 39 produce destructive effects primarily through combustion rather than explosion. This  
 40 provision does not extend to those containers that contain and that are primarily designed  
 41 and approved for the transportation or storage of a particular mixture, material or liquid.

4

1 (b) Violation of this section is a misdemeanor and is punishable upon conviction  
2 by imprisonment in the penitentiary for not to exceed 5 years, or by fine not to exceed  
3 \$2,500 or both.]

4 [139B.

5 (a) A person may not manufacture, assemble, possess, transport, or place in this  
6 State any destructive explosive device with the intent to terrorize, frighten, intimidate,  
7 threaten, or harass.

8 (b) The term "destructive explosive device" shall include any explosive, as defined  
9 by Article 38A, § 26(1) of the Code, incendiary or poisonous gas incorporated into a  
10 bomb, grenade, rocket having a propellant charge, missile having an explosive or  
11 incendiary charge, mine, or other similar device.

12 (c) A person who violates this section is guilty of a felony and, upon conviction, is  
13 subject to imprisonment for 20 years or a fine of \$10,000 or both.]

14 [139C.

15 (a) In this section, "pipe bomb" means a noncommercially made explosive device  
16 constructed of a solid material filled with explosive material which is designed to explode  
17 when subjected to heat, friction, concussion, or detonation.

18 (b) An individual may not knowingly manufacture, assemble, possess, transport,  
19 or use a pipe bomb.

20 (c) An individual who violates this section is guilty of a felony and on conviction  
21 is subject to a fine of not more than \$10,000 or imprisonment for not more than 20 years  
22 or both.]

23 DESTRUCTIVE DEVICES

24 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The purpose of this  
25 revision of the explosives laws is to consolidate the law on this subject and to ensure that  
26 the creation of any device intended to cause damage to property or injury to persons by  
27 way of explosion, fire, or poison is covered by the law. This revision does not prohibit or  
28 regulate any materials that are currently legal and commonly used in households and in  
29 business. This subheading would apply to such materials only when they are intentionally  
30 combined with a delivery system so as to create a destructive capacity for which they were  
31 never intended. Those items included as illustrations that have legitimate uses become  
32 subject to the provisions of this subheading only when a person uses them for a criminal  
33 purpose.

34 139A. DEFINITIONS.

35 (A) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
36 INDICATED.

37 (B) (1) "DESTRUCTIVE DEVICE" MEANS EXPLOSIVE, INCENDIARY, OR  
38 TOXIC MATERIAL THAT HAS BEEN COMBINED WITH A DELIVERY OR DETONATING  
39 APPARATUS SO AS TO BE CAPABLE OF INFLECTING INJURY TO PERSONS OR DAMAGE  
40 TO PROPERTY.

5

1 (2) "DESTRUCTIVE DEVICE" INCLUDES:

2 (I) DEVICES WHICH ARE PRIMARILY DESIGNED AND  
3 MANUFACTURED FOR MILITARY PURPOSES AS INSTRUMENTALITIES OF  
4 DESTRUCTION, INCLUDING ANY BOMB, GRENADE, MINE, SHELL, MISSILE,  
5 FLAMETHROWER, OR POISON GAS; AND

6 (II) ANY EXPLOSIVE, INCENDIARY, OR TOXIC MATERIAL WHICH  
7 HAS BEEN DELIBERATELY MODIFIED, CONTAINERIZED OR OTHERWISE EQUIPPED  
8 WITH ANY SORT OF SPECIAL DELIVERY, ACTIVATION OR DETONATION COMPONENT  
9 SO AS TO GIVE IT THE DESTRUCTIVE CHARACTERISTICS OF A MILITARY ORDNANCE,  
10 INCLUDING A MOLOTOV COCKTAIL, PIPE BOMB, OR PETROLEUM SOAKED  
11 ~~FERTILIZER~~ AMMONIUM NITRATE.

12 (C) (1) "EXPLOSIVE MATERIAL" MEANS MATERIAL WHICH EXPLODES  
13 WHEN DETONATED AND HAS A DESTRUCTIVE CAPABILITY.

14 (2) "EXPLOSIVE MATERIAL" INCLUDES:

15 (I) EXPLOSIVES AS DEFINED IN ARTICLE 38A, § 26 OF THE CODE;  
16 AND

17 (II) DYNAMITE FOR CONSTRUCTION WORK, ~~FERTILIZER FOR~~  
18 ~~FARMING~~ AMMONIUM NITRATE, NATURAL GAS IN PIPELINES AND STORAGE TANKS,  
19 ETHER, AND CANNISTERIZED OXYGEN FOR HEALTH CARE FACILITIES.

20 (3) "EXPLOSIVE MATERIAL" DOES NOT INCLUDE THOSE ITEMS  
21 EXCLUDED AS EXPLOSIVES IN ARTICLE 38A, § 26 OF THE CODE WHEN THOSE ITEMS  
22 ARE USED IN THEIR ORIGINAL CONFIGURATION.

23 (D) (1) "INCENDIARY MATERIAL" MEANS A FLAMMABLE OR COMBUSTIBLE  
24 LIQUID.

25 (2) "INCENDIARY MATERIAL" INCLUDES GASOLINE, ACETONE,  
26 BENZENE, BUTANE, JET FUEL, FUEL OIL, KEROSENE, AND DIESEL FUEL.

27 (E) (1) "TOXIC MATERIAL" MEANS MATERIAL WHICH IS CAPABLE OF  
28 CAUSING DEATH OR SERIOUS BODILY INJURY ALMOST IMMEDIATELY ON BEING  
29 ABSORBED THROUGH THE SKIN, INHALED, OR INGESTED.

30 (2) "TOXIC MATERIAL" INCLUDES NERVE GAS, MUSTARD GAS, CYANIDE  
31 GAS, CHLORINE GAS, AND SULPHURIC ACID.

32 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definition  
33 of explosive material in subsection (c) incorporates by reference the definition of  
34 explosives in Article 38A, § 26. Subsection (c)(3) is added to clarify that fireworks,  
35 ammunition, and the other items excluded in Article 38A, § 26 are not destructive devices  
36 when used in their original configuration. If, however, they are deliberately altered and  
37 equipped with some type of detonation device, they would be covered by the definition of  
38 destructive device. For instance, ammunition would not be considered explosive material  
39 but a pipe bomb made from gunpowder obtained from ammunition would be covered.

6

1 139B. EXEMPTIONS FROM APPLICATION OF SUBHEADING.

2 THE PROHIBITIONS OF THIS SUBHEADING DO NOT APPLY TO:

3 (1) LAW ENFORCEMENT PERSONNEL OF THE UNITED STATES  
4 GOVERNMENT OR ANY AGENCY OR DEPARTMENT OF THE UNITED STATES,  
5 MEMBERS OF THE ARMED FORCES OF THE UNITED STATES OR OF THE NATIONAL  
6 GUARD, OR LAW ENFORCEMENT PERSONNEL OF THE STATE OR A POLITICAL  
7 SUBDIVISION OF THE STATE WHILE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL  
8 DUTIES;

9 (2) OFFICERS OR EMPLOYEES OF THE UNITED STATES, THE STATE, OR A  
10 POLITICAL SUBDIVISION OF THE STATE WHO ARE AUTHORIZED TO HANDLE A  
11 DESTRUCTIVE DEVICE WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES AND WHO  
12 ARE ACTING WITHIN THE SCOPE OF THEIR OFFICIAL DUTIES;

13 (3) A PERSON AUTHORIZED OR LICENSED UNDER LAW TO POSSESS THE  
14 EXPLOSIVE, INCENDIARY, OR TOXIC MATERIAL WHILE THE PERSON IS ACTING  
15 WITHIN THE SCOPE OF THE AUTHORIZATION OR LICENSE IF POSSESSION OF A  
16 PARTICULAR EXPLOSIVE, INCENDIARY, OR TOXIC MATERIAL IS SPECIFICALLY  
17 REGULATED OR LICENSED UNDER LAW; OR

18 (4) A PERSON WHO:

19 (I) POSSESSES SMOKELESS OR BLACK GUNPOWDER UNDER THE  
20 PROVISIONS OF ARTICLE 38A OF THE CODE; AND

21 (II) USES SMOKELESS OR BLACK GUNPOWDER FOR LOADING OR  
22 RELOADING SMALL ARMS AMMUNITION, ANTIQUE FIREARMS, OR REPLICAS OF  
23 ANTIQUE FIREARMS.

24 139C. PROHIBITIONS.

25 A PERSON MAY NOT KNOWINGLY:

26 (1) MANUFACTURE, TRANSPORT, POSSESS, CONTROL, STORE, SELL,  
27 DISTRIBUTE, OR USE A DESTRUCTIVE DEVICE; OR

28 (2) POSSESS ANY EXPLOSIVE, INCENDIARY, OR TOXIC MATERIAL WITH  
29 INTENT TO CREATE A DESTRUCTIVE DEVICE.

30 139D. PENALTIES.

31 (A) A PERSON WHO VIOLATES THE PROVISIONS OF THIS SUBHEADING IS  
32 GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE  
33 THAN \$250,000 OR BY IMPRISONMENT FOR NOT MORE THAN 25 YEARS OR BOTH.

34 (B) THE SENTENCE IMPOSED UNDER THIS SECTION MAY BE IMPOSED  
35 SEPARATE FROM AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR  
36 AN OFFENSE BASED ON THE ACT OR ACTS ESTABLISHING THE VIOLATION OF THIS  
37 SUBHEADING.

7

1 151A.

2 (A) A person is guilty of a ~~misdemeanor~~ FELONY if, knowing the statement or  
 3 rumor to be false, he circulates or transmits to another or others, with intent that it be  
 4 acted upon, a statement or rumor, written, printed, or by word of mouth, concerning the  
 5 location or possible detonation of a [bomb or other explosive] DESTRUCTIVE DEVICE,  
 6 AS DEFINED IN § 139A OF THIS ARTICLE. An offense under this section committed by the  
 7 use of a telephone may be deemed to have been committed either at the place at which  
 8 the telephone call or calls were made or at the place at which the telephone call or calls  
 9 were received.

10 (B) A person convicted of violating this section is subject to a fine not exceeding  
 11 \$10,000 or to imprisonment [for] not exceeding [one year] ~~3~~ 10 YEARS, or to both such  
 12 fine and imprisonment in the discretion of the court. This section does not apply to any  
 13 statement or rumor made or circulated by an officer, employee, or agent of a bona fide  
 14 civilian defense organization or agency, if made in the regular course of his duties with  
 15 that organization or agency.

16 (C) IN ADDITION TO THE PENALTY PROVIDED IN SUBSECTION (B) OF THIS  
 17 SECTION, A PERSON CONVICTED UNDER THIS SECTION MAY BE ORDERED BY THE  
 18 COURT TO PAY RESTITUTION TO THE OWNER OR TENANT OF A PROPERTY FOR THE  
 19 VALUE OF ANY GOODS, SERVICES, OR INCOME LOST AS A RESULT OF THE  
 20 EVACUATION OF THE PROPERTY IN RESPONSE TO THE FALSE STATEMENT OR  
 21 RUMOR OF EXPLOSIVES.

22 ~~COMMITTEE NOTE TO THE GENERAL ASSEMBLY: The Committee to~~  
 23 ~~Revise Article 27 felt that the penalties for both this section and § 151C should be the~~  
 24 ~~same as those for the more serious malicious destruction of property offense under § 111,~~  
 25 ~~which is a maximum penalty of 3 years and \$2,500. Therefore, in both this section and §~~  
 26 ~~151C the maximum term of imprisonment is raised from 1 year to 3 years. The current~~  
 27 ~~maximum fine for this section is \$10,000. Rather than reduce this fine to \$2,500, the~~  
 28 ~~Committee has decided to maintain it at \$10,000 and leave it to the discretion of the~~  
 29 ~~General Assembly whether to make the fine in this section consistent with that in § 151C.~~  
 30 ~~In § 151C, this revision raises the maximum fine from \$1,000 to \$2,500.~~

31 151C.

32 (a) A person may not manufacture, possess, transport, or place a device that is  
 33 constructed to represent a [bomb, explosive, incendiary, or destructive explosive]  
 34 DESTRUCTIVE device, AS DEFINED IN § 139A OF THIS ARTICLE, with the intent to  
 35 terrorize, frighten, intimidate, threaten, or harass.

36 (b) A person who violates this section is guilty of a ~~misdemeanor~~ FELONY and on  
 37 conviction, is subject to imprisonment for [1 year or a fine of \$1,000] NOT MORE THAN  
 38 ~~3~~ 10 YEARS OR A FINE OF NOT MORE THAN ~~\$2,500~~ \$10,000 or both.

39 (C) IN ADDITION TO THE PENALTY PROVIDED IN SUBSECTION (B) OF THIS  
 40 SECTION, A PERSON CONVICTED UNDER THIS SECTION MAY BE ORDERED BY THE  
 41 COURT TO PAY RESTITUTION TO:

8

1 (1) THE STATE, COUNTY, MUNICIPAL CORPORATION, OR BICOUNTY  
2 AGENCY FOR COSTS INCURRED IN THE SEARCH FOR AND REMOVAL OF ANY  
3 DEVICES REPRESENTING EXPLOSIVES; AND

4 (2) THE OWNER OR TENANT OF A PROPERTY FOR THE VALUE OF ANY  
5 GOODS, SERVICES, OR INCOME LOST AS A RESULT OF THE EVACUATION OF THE  
6 PROPERTY IN RESPONSE TO THE REPRESENTATION OF EXPLOSIVES.

7 410.

8 All murder which shall be committed in the perpetration of, or attempt to  
9 perpetrate, any rape in any degree, sexual offense in the first or second degree, sodomy,  
10 mayhem, robbery, carjacking or armed carjacking, burglary in the first, second, or third  
11 degree, A VIOLATION OF § 139C OF THIS ARTICLE CONCERNING DESTRUCTIVE  
12 DEVICES, kidnapping as defined in §§ 337 and 338 of this article, or in the escape or  
13 attempt to escape from the Maryland Penitentiary, the house of correction, the Baltimore  
14 City Detention Center, or from any jail or penal institution in any of the counties of this  
15 State, shall be murder in the first degree.

16 594B.

17 (i) (1) The State Fire Marshal or a full-time assistant of the Office of the State  
18 Fire Marshal has the same powers of arrest set forth in subsection (c) of this section as to  
19 offenses listed under §§ 6, 7, [119, 139B, and] 139C, AND 410, of this article, AND  
20 ATTEMPTS, CONSPIRACIES, AND SOLICITATIONS TO COMMIT THESE OFFENSES.

21 (2) The State Fire Marshal or a full-time assistant of the Office of the State  
22 Fire Marshal has the same powers of arrest set forth in subsection (e) of this section as to  
23 offenses listed under §§ 8(a), 9, 9A, 11D, 111B, [139A] 151A, 151C, 156, and 470A(b) (4)  
24 of this article, and attempting, causing, aiding, counseling, or procuring arson in the first  
25 or second degree or malicious burning in the first or second degree.

26 616 1/2.

27 (c) Any person charged with an offense hereinafter enumerated committed  
28 during the time that person had been released on bail or his own recognizance for  
29 committing an offense hereinafter enumerated, is ineligible to give bail or be released on  
30 recognizance on the subsequent charge, until all prior charges hereunder have finally  
31 been determined by the courts. But a person charged with a subsequent crime hereinafter  
32 set forth, may rebut his ineligibility for release on bail before determination of the prior  
33 charge. If, after consideration of the matters presented in rebuttal, the court hearing the  
34 application for bail is persuaded that the applicant would not pose a danger to any other  
35 person or to the community, and would appear at the time set for trial, the court may  
36 allow release pending trial on suitable bail and on such other conditions as will reasonably  
37 assure that the person charged will not flee. For the purposes of this subsection, court  
38 does not mean District Court commissioners and the offenses are those specified in the  
39 following sections of Article 27 of the Annotated Code of Maryland (1967 Repl. Vol.) as  
40 they may be amended from time to time:

41 (1) Section 6 (relating to arson in the first degree) and attempting, aiding,  
42 counseling, or procuring arson in the first degree;

9

- 1                   (2) Section 7 (relating to arson in the second degree) and attempting,  
2 aiding, counseling, or procuring arson in the second degree;
- 3                   (3) Section 12A-1 (relating to assault in the first degree);
- 4                   (4) Section 29 (relating to burglary in the first degree);
- 5                   (5) Section 30 (relating to burglary in the second degree);
- 6                   (6) Section 31 (relating to burglary in the third degree);
- 7                   (7) Section 35C (causing abuse to child under 18);
- 8                   (8) SECTION 139C (RELATING TO DESTRUCTIVE DEVICES);
- 9                   [[8]] (9) Section 286 (relating to the manufacture, distribution, etc., or to  
10 the counterfeiting, etc., of a controlled dangerous substance or of certain equipment  
11 relating thereto and relating to the keeping of a common nuisance as related to drug  
12 abuse);
- 13                   [[9]] (10) Section 337 (relating to kidnapping generally);
- 14                   [[10]] (11) Section 338 (relating to kidnapping children under sixteen);
- 15                   [[11]] (12) Section 388 (relating to manslaughter by automobile, motorboat,  
16 etc.);
- 17                   [[12]] (13) Section 407 (relating to first degree murder);
- 18                   [[13]] (14) Section 408 (relating to murder committed in perpetration of  
19 arson);
- 20                   [[14]] (15) Section 409 (relating to murder committed in burning barns, etc.);
- 21                   [[15]] (16) Section 410 (relating to murder committed in perpetration of rape  
22 in any degree, sexual offense in the first or second degree, sodomy, etc.);
- 23                   [[16]] (17) Section 411 (relating to second degree murder);
- 24                   [[17]] (18) Section 411A (relating to attempted murder in the first or second  
25 degree);
- 26                   [[18]] (19) Sections 462 and 463 (relating to rape in the first and second  
27 degree);
- 28                   [[19]] (20) Section 464F (relating to attempted rape or sexual offense in the  
29 first or second degree);
- 30                   [[20]] (21) Section 486 (relating to robbery generally); and
- 31                   [[21]] (22) Section 488 (relating to robbery with a deadly weapon).

32                   (d) If a person is charged with an offense listed in subsection (c) of this section  
33 after being convicted for an offense listed in subsection (c) of this section, the person may  
34 not be released on personal recognizance.

10

1 **Article 38A - Fires and Investigations**

2 8.

3 (g) (1) The State Fire Marshal, in making this inspection or investigation, may,  
 4 when in his judgment necessary, take the testimony on oath of all persons supposed to be  
 5 cognizant of any facts, or to have the means of knowledge in relation to the matter herein  
 6 required to be examined and inquired into, and to cause the testimony to be reduced to  
 7 writing; and when, in his judgment, the examination discloses that the fire or explosion or  
 8 attempt to cause a fire or explosion was of incendiary origin OR WAS RELATED TO A  
 9 DESTRUCTIVE DEVICE AS DEFINED IN ARTICLE 27, § 139A OF THE CODE , the State  
 10 Fire Marshal may arrest the supposed incendiary or cause him to be arrested and charged  
 11 with the crime; and shall transmit a copy of the testimony so taken to the State's Attorney  
 12 for the county or city wherein the fire or explosion or attempt to cause a fire or explosion  
 13 occurred.

14 (2) If, upon investigation, the State Fire Marshal has probable cause to  
 15 believe that a person has committed or has attempted to commit a crime involving a fire,  
 16 fire bombing, or false alarm, or involving the possession or manufacture of [explosive]  
 17 DESTRUCTIVE devices or EXPLOSIVE substances, fireworks, or fire bombs, the State Fire  
 18 Marshal may arrest that person or cause him to be arrested and charged with the crime,  
 19 in accordance with the appropriate procedures provided by law.

20 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The changes to  
 21 this section are intended to clarify the authority of the State Fire Marshal to investigate  
 22 and charge for any offense involving destructive devices, regardless of whether incendiary  
 23 materials are involved.

24 26.

25 As used in this subtitle:

26 (1) "Explosives" means gunpowder, powders for blasting, high "explosives"  
 27 blasting materials, fuses (other than electric circuit breakers), detonators, and other  
 28 detonating agents, smokeless powder and any chemical compound or any mechanical  
 29 mixture containing any oxidizing and combustible units, or other ingredients in such  
 30 proportions, quantities, or packing that ignition by fire, friction, concussion, percussion or  
 31 detonation of any part thereof may and is intended to cause an explosion, including  
 32 bombs and destructive devices designed to operate by chemical, mechanical or explosive  
 33 action but shall not include fixed ammunition for small arms, small arms ammunition  
 34 primers, small arms percussion caps, safety and pyrotechnic fuses, quills, quick and slow  
 35 matches, friction primers, fireworks, or common matches when used in their original  
 36 configuration.

37 **Article - Courts and Judicial Proceedings**

38 10-402.

39 (c) (2) It is lawful under this subtitle for an investigative or law enforcement  
 40 officer acting in a criminal investigation or any other person acting at the prior direction  
 41 and under the supervision of an investigative or law enforcement officer to intercept a  
 42 wire, oral, or electronic communication in order to provide evidence of the commission of

11

1 the offenses of murder, kidnapping, rape, a sexual offense in the first or second degree,  
2 child abuse, gambling, robbery, any felony punishable under the "Arson and Burning"  
3 subheading of Article 27, bribery, extortion, or dealing in controlled dangerous  
4 substances, including violations of Article 27, § 286B or § 287A, fraudulent insurance  
5 acts, as defined in Article 48A, § 233, OFFENSES RELATING TO DESTRUCTIVE DEVICES  
6 UNDER ARTICLE 27, § 139C OF THE CODE, or any conspiracy or solicitation to commit any  
7 of these offenses, or where any person has created a barricade situation and probable  
8 cause exists for the investigative or law enforcement officer to believe a hostage or  
9 hostages may be involved, where the person is a party to the communication or one of the  
10 parties to the communication has given prior consent to the interception.

11 10-406.

12 The Attorney General, State Prosecutor, or any State's Attorney may apply to a  
13 judge of competent jurisdiction, and the judge, in accordance with the provisions of §  
14 10-408 of this subtitle, may grant an order authorizing the interception of wire, oral, or  
15 electronic communications by investigative or law enforcement officers when the  
16 interception may provide or has provided evidence of the commission of the offense of  
17 murder, kidnapping, gambling, robbery, any felony punishable under the "Arson and  
18 Burning" subheading of Article 27 of this Code, bribery, extortion, or dealing in  
19 controlled dangerous substances, OFFENSES RELATING TO DESTRUCTIVE DEVICES  
20 UNDER ARTICLE 27, § 139C OF THE CODE, or any conspiracy or solicitation to commit any  
21 of the foregoing offenses. No application or order shall be required if the interception is  
22 lawful under the provisions of § 10-402(c) of this subtitle.

23 **Article - State Government**

24 2-1702.

25 (e) (2) A person may not willfully bring an assault weapon or other firearm[,  
26 explosive, or incendiary] OR DESTRUCTIVE device, AS DEFINED IN ARTICLE 27, § 139A  
27 OF THE CODE, into or have an assault weapon or other firearm[, explosive, or  
28 incendiary] OR DESTRUCTIVE device in a building where:

29 (i) the Senate or the House has a chamber;

30 (ii) a member, officer, or employee of the General Assembly has an  
31 official office; or

32 (iii) a committee of the General Assembly, the Senate, or the House  
33 has an office.

34 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Notes and  
35 catchlines contained in this Act are not law.

36 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
37 October 1, 1997.

