

# HOUSE BILL 152

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3lr0456

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By: **Delegates Anderson, Vallario, Carter, Cluster, Conaway, Dumais, Glenn, Hough, Ivey, McComas, McDermott, Mitchell, Parrott, Smigiel, and Valderrama**

Introduced and read first time: January 18, 2013

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 14, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Criminal Procedure – Successive Federal and State Prosecutions – Bar**

3 FOR the purpose of providing that ~~if an act is a violation of both a State and a federal~~  
4 ~~criminal statute, the commencement of a prosecution under the federal statute~~  
5 ~~bars a prosecution under the State statute; establishing that for certain~~  
6 ~~purposes, a prosecution under a federal statute is deemed to be commenced once~~  
7 ~~jeopardy has attached; a prosecution under a State criminal statute is barred if~~  
8 ~~the defendant was previously prosecuted in a District Court of the United~~  
9 ~~States for the same conduct~~ United States District Court for a crime arising out  
10 of the same incident, the elements of the crime are identical in the State and  
11 federal statutes, and the federal prosecution resulted in a conviction or an  
12 acquittal; providing for the application of this Act; and generally relating to  
13 successive federal and State prosecutions.

14 BY adding to

15 Article – Criminal Procedure

16 Section 1–211

17 Annotated Code of Maryland

18 (2008 Replacement Volume and 2012 Supplement)

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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Article – Criminal Procedure

2

1-211.

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~~(A) IF AN ACT IS A VIOLATION OF BOTH A STATE AND A FEDERAL CRIMINAL STATUTE, THE COMMENCEMENT OF A PROSECUTION UNDER THE FEDERAL STATUTE BARS A PROSECUTION UNDER THE STATE STATUTE.~~

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~~(B) FOR PURPOSES OF THIS SECTION, A PROSECUTION UNDER A FEDERAL STATUTE IS DEEMED TO BE COMMENCED ONCE JEOPARDY HAS ATTACHED.~~

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A PROSECUTION UNDER A STATE CRIMINAL STATUTE IS BARRED IF:

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(1) THE DEFENDANT WAS PREVIOUSLY PROSECUTED IN A DISTRICT COURT OF THE UNITED STATES FOR THE SAME CONDUCT; AND UNITED STATES DISTRICT COURT FOR A CRIME ARISING OUT OF THE SAME INCIDENT;

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(2) ALL OF THE ELEMENTS OF THE CRIME IN THE STATE CRIMINAL STATUTE ARE IDENTICAL TO THE ELEMENTS OF THE CRIME IN THE FEDERAL CRIMINAL STATUTE; AND

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~~(2)~~ (3) THE FEDERAL PROSECUTION RESULTED IN A CONVICTION OR AN ACQUITTAL.

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SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any crime committed before the effective date of this Act.

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SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2013.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.