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By: **Delegates Rzepkowski, M. Burns, and Love**  
Introduced and read first time: January 26, 1998  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Court - Jurisdiction - Offenses Involving Destructive Devices**

3 FOR the purpose of excluding from the original jurisdiction of the juvenile court a  
4 child at least 16 years old alleged to have committed an offense involving a  
5 destructive device except under a certain circumstance; and generally relating  
6 to juvenile court jurisdiction.

7 BY repealing and reenacting, with amendments,  
8 Article - Courts and Judicial Proceedings  
9 Section 3-804(e)  
10 Annotated Code of Maryland  
11 (1995 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, without amendments,  
13 Article 27 - Crimes and Punishments  
14 Section 139A, 139C, 139D, 151A, 151C, and 594A(a) and (b)  
15 Annotated Code of Maryland  
16 (1996 Replacement Volume and 1997 Supplement)

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

19 **Article - Courts and Judicial Proceedings**

20 3-804.

21 (e) The court does not have jurisdiction over:

22 (1) A child at least 14 years old alleged to have done an act which, if  
23 committed by an adult, would be a crime punishable by death or life imprisonment, as  
24 well as all other charges against the child arising out of the same incident, unless an  
25 order removing the proceeding to the court has been filed under Article 27, § 594A of  
26 the Code;

1           (2)     A child at least 16 years old alleged to have done an act in violation of  
2 any provision of the Transportation Article or other traffic law or ordinance, except an  
3 act that prescribes a penalty of incarceration;

4           (3)     A child at least 16 years old alleged to have done an act in violation of  
5 any provision of law, rule, or regulation governing the use or operation of a boat,  
6 except an act that prescribes a penalty of incarceration; or

7           (4)     A child at least 16 years old alleged to have committed any of the  
8 following crimes, as well as all other charges against the child arising out of the same  
9 incident, unless an order removing the proceeding to the court has been filed under  
10 Article 27, § 594A of the Code:

11                   (i)     Abduction;

12                   (ii)    Kidnapping;

13                   (iii)   Second degree murder;

14                   (iv)   Manslaughter, except involuntary manslaughter;

15                   (v)    Second degree rape;

16                   (vi)   Robbery with a dangerous or deadly weapon;

17                   (vii)   Second degree sexual offense in violation of Article 27, §  
18 464A(a)(1) of the Code;

19                   (viii)   Third degree sexual offense in violation of Article 27, §  
20 464B(a)(1) of the Code;

21                   (ix)    A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §  
22 446, or § 481C of the Code;

23                   (x)     Using, wearing, carrying, or transporting of firearm during and  
24 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;

25                   (xi)    Use of a firearm in violation of Article 27, § 291A of the Code;

26                   (xii)   Carjacking or armed carjacking in violation of Article 27, § 348A  
27 of the Code;

28                   (xiii)   Assault in the first degree in violation of Article 27, § 12A-1 of  
29 the Code;

30                   (xiv)   Attempted murder in the second degree in violation of Article  
31 27, § 411A of the Code;

32                   (xv)   Attempted rape or attempted sexual offense in the second  
33 degree under Article 27, § 464F of the Code; [or]

1 (xvi) Attempted robbery with a dangerous or deadly weapon under  
2 Article 27, § 488 of the Code; OR

3 (XVII) A CRIME IN VIOLATION OF ARTICLE 27, § 139C, § 151A, OR § 151C  
4 OF THE CODE.

### 5 **Article 27 - Crimes and Punishments**

6 139A.

7 (a) In this section the following words have the meanings indicated.

8 (b) (1) "Destructive device" means explosive, incendiary, or toxic material  
9 that has been combined with a delivery or detonating apparatus so as to be capable of  
10 inflicting injury to persons or damage to property.

11 (2) "Destructive device" includes:

12 (i) Devices which are primarily designed and manufactured for  
13 military purposes as instrumentalities of destruction, including any bomb, grenade,  
14 mine, shell, missile, flamethrower, or poison gas; and

15 (ii) Any explosive, incendiary, or toxic material which has been  
16 deliberately modified, containerized or otherwise equipped with any sort of special  
17 delivery, activation or detonation component so as to give it the destructive  
18 characteristics of a military ordnance, including a Molotov cocktail, pipe bomb, or  
19 petroleum soaked ammonium nitrate.

20 (c) (1) "Explosive material" means material which explodes when detonated  
21 and has a destructive capability.

22 (2) "Explosive material" includes:

23 (i) Explosives as defined in Article 38A, § 26 of the Code; and

24 (ii) Dynamite for construction work, ammonium nitrate, natural  
25 gas in pipelines and storage tanks, ether, and cannisterized oxygen for health care  
26 facilities.

27 (3) "Explosive material" does not include those items excluded as  
28 explosives in Article 38A, § 26 of the Code when those items are used in their original  
29 configuration.

30 (d) (1) "Incendiary material" means a flammable or combustible liquid.

31 (2) "Incendiary material" includes gasoline, acetone, benzene, butane, jet  
32 fuel, fuel oil, kerosene, and diesel fuel.

1 (e) (1) "Toxic material" means material which is capable of causing death or  
2 serious bodily injury almost immediately on being absorbed through the skin,  
3 inhaled, or ingested.

4 (2) "Toxic material" includes nerve gas, mustard gas, cyanide gas,  
5 chlorine gas, and sulphuric acid.

6 139C.

7 A person may not knowingly:

8 (1) Manufacture, transport, possess, control, store, sell, distribute, or use  
9 a destructive device; or

10 (2) Possess any explosive, incendiary, or toxic material with intent to  
11 create a destructive device.

12 139D.

13 (a) A person who violates the provisions of this subheading is guilty of a felony  
14 and on conviction is subject to a fine of not more than \$250,000 or by imprisonment  
15 for not more than 25 years or both.

16 (b) The sentence imposed under this section may be imposed separate from  
17 and consecutive to or concurrent with a sentence for an offense based on the act or  
18 acts establishing the violation of this subheading.

19 (c) (1) In addition to the penalty provided in this section, a person convicted  
20 under this subheading may be ordered by the court to pay restitution to:

21 (i) The State, county, municipal corporation, bicounty agency, or  
22 special taxing district for actual costs reasonably incurred due to the placement,  
23 delivery, or detonation of a destructive device, including the search for, removal of,  
24 and damages caused by a destructive device; and

25 (ii) The owner or tenant of a property for the actual value of any  
26 goods, services, or income lost as a result of the evacuation of the property or damage  
27 sustained due to the placement, delivery, or detonation of a destructive device.

28 (2) This subsection may not be construed to limit the right of a person to  
29 restitution under § 807 of this article.

30 151A.

31 (a) A person is guilty of a felony if, knowing the statement or rumor to be false,  
32 he circulates or transmits to another or others, with intent that it be acted upon, a  
33 statement or rumor, written, printed, by any electronic means, or by word of mouth,  
34 concerning the location or possible detonation of a destructive device, as defined in §  
35 139A of this article. An offense under this section committed by the use of a telephone  
36 or by other electronic means may be deemed to have been committed either at the

1 place at which the telephone call or calls were made or the electronic communication  
2 originated or at the place at which the telephone call or calls or electronic  
3 communication were received.

4 (b) A person convicted of violating this section is subject to a fine not  
5 exceeding \$10,000 or to imprisonment not exceeding 10 years, or to both such fine and  
6 imprisonment in the discretion of the court. This section does not apply to any  
7 statement or rumor made or circulated by an officer, employee, or agent of a bona fide  
8 civilian defense organization or agency, if made in the regular course of his duties  
9 with that organization or agency.

10 (c) (1) In addition to the penalty provided in subsection (b) of this section, a  
11 person convicted under this section may be ordered by the court to pay restitution to:

12 (i) The State, county, municipal corporation, bicounty agency, or  
13 special taxing district for actual costs reasonably incurred due to the response to a  
14 location and search for a destructive device caused by the false statement or rumor of  
15 a destructive device; and

16 (ii) The owner or tenant of a property for the actual value of any  
17 goods, services, or income lost as a result of the evacuation of the property in response  
18 to the false statement or rumor of a destructive device.

19 (2) This subsection may not be construed to limit the right of a person to  
20 restitution under § 807 of this article.

21 151C.

22 (a) A person may not manufacture, possess, transport, or place a device that is  
23 constructed to represent a destructive device, as defined in § 139A of this article, with  
24 the intent to terrorize, frighten, intimidate, threaten, or harass.

25 (b) A person who violates this section is guilty of a felony and on conviction, is  
26 subject to imprisonment for not more than 10 years or a fine of not more than \$10,000  
27 or both.

28 (c) (1) In addition to the penalty provided in subsection (b) of this section, a  
29 person convicted under this section may be ordered by the court to pay restitution to:

30 (i) The State, county, municipal corporation, bicounty agency, or  
31 special taxing district for actual costs reasonably incurred in the search for and  
32 removal of any devices representing destructive devices; and

33 (ii) The owner or tenant of a property for the actual value of any  
34 goods, services, or income lost as a result of the evacuation of the property in response  
35 to the representation of a destructive device.

36 (2) This subsection may not be construed to limit the right of a person to  
37 restitution under § 807 of this article.

1 594A.

2 (a) In any case, except as provided in subsection (b), involving a child who has  
3 reached 14 years of age but has not reached 18 years of age at the time of any alleged  
4 offense excluded under the provisions of § 3-804(e)(1) or (4) of the Courts and Judicial  
5 Proceedings Article, the court exercising jurisdiction may transfer the case to the  
6 juvenile court if a waiver is believed to be in the interests of the child or society.

7 (b) The court may not transfer a case to the juvenile court under subsection (a)  
8 if:

9 (1) The child has previously been waived to juvenile court and  
10 adjudicated delinquent;

11 (2) The child was convicted in another unrelated case excluded from the  
12 jurisdiction of the juvenile court under § 3-804(e)(1) or (4) of the Courts and Judicial  
13 Proceedings Article; or

14 (3) The alleged offense is murder in the first degree and the accused  
15 child is 16 or 17 at the time the alleged offense was committed.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
17 October 1, 1998.