

SENATE BILL 101
EMERGENCY BILL

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1998 Regular Session
8lr0727
CF 8lr0729

By: ~~Senator Middlebrooks~~ Senators Middlebrooks, Baker, Colburn,
Forchand, Green, Haines, Jimeno, and Stone

Introduced and read first time: January 19, 1998

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: February 27, 1998

CHAPTER _____

1 AN ACT concerning

2 **Criminal Procedure - Bombs - Suspension of Driving Privileges and**
3 **Restitution - Juvenile Court Jurisdiction**

4 FOR the purpose of allowing the court to order the Motor Vehicle Administration to
5 suspend the driver's license, or not issue a driver's license, to certain individuals
6 convicted of certain crimes involving a destructive device; requiring the court to
7 order restitution for destructive device offenses under certain circumstances;
8 expanding the type of restitution; making local boards of education eligible for
9 restitution for crimes involving a destructive device; eliminating the juvenile
10 court's jurisdiction over certain children alleged to have committed certain
11 violations involving a destructive device under certain circumstances;
12 establishing procedures for the suspension of a driver's license or privilege;
13 making this Act an emergency measure; and generally relating to penalties for
14 crimes involving destructive devices.

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 139D, 151A, and 151C
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1997 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Courts and Judicial Proceedings
22 Section 3-804(e) and 3-820(d)
23 Annotated Code of Maryland
24 (1995 Replacement Volume and 1997 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Transportation
3 Section 16-206(a) and (d)
4 Annotated Code of Maryland
5 (1992 Replacement Volume and 1997 Supplement)

6 BY repealing and reenacting, without amendments,
7 Article - Transportation
8 Section 16-206(c)
9 Annotated Code of Maryland
10 (1992 Replacement Volume and 1997 Supplement)

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

13 **Article 27 - Crimes and Punishments**

14 139D.

15 (a) A person who violates the provisions of this subheading is guilty of a felony
16 and on conviction is subject to a fine of not more than \$250,000 or by imprisonment
17 for not more than 25 years or both. IN ADDITION, THE COURT MAY ORDER THE
18 MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR
19 VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CONVICTED PERSON
20 FOR A SPECIFIED PERIOD NOT TO EXCEED 2 YEARS FROM THE DATE OF THE
21 CONVICTION.

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

25 (c) (1) In addition to the penalty provided in this section, a person convicted
26 under this subheading [may] SHALL be ordered by the court to pay restitution to:

27 (i) The State, county, LOCAL BOARD OF EDUCATION, municipal
28 corporation, bicounty agency, or special taxing district for actual costs, INCLUDING
29 SALARIES AND WAGES, reasonably incurred due to the placement, delivery, or
30 detonation of a destructive device, including the search for, removal of, and damages
31 caused by a destructive device; and

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

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

1 151A.

2 (a) A person is guilty of a felony if, knowing the statement or rumor to be false,
3 he circulates or transmits to another or others, with intent that it be acted upon, a
4 statement or rumor, written, printed, by any electronic means, or by word of mouth,
5 concerning the location or possible detonation of a destructive device, as defined in §
6 139A of this article. An offense under this section committed by the use of a telephone
7 or by other electronic means may be deemed to have been committed either at the
8 place at which the telephone call or calls were made or the electronic communication
9 originated or at the place at which the telephone call or calls or electronic
10 communication were received.

11 (b) A person convicted of violating this section is subject to a fine not
12 exceeding \$10,000 or to imprisonment not exceeding 10 years, or to both such fine and
13 imprisonment in the discretion of the court. IN ADDITION, THE COURT MAY ORDER
14 THE MOTOR VEHICLE ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR
15 VEHICLE LAWS, TO SUSPEND THE DRIVING PRIVILEGE OF THE CONVICTED PERSON
16 FOR A SPECIFIED PERIOD NOT TO EXCEED 2 YEARS FROM THE DATE OF THE
17 CONVICTION. This section does not apply to any statement or rumor made or
18 circulated by an officer, employee, or agent of a bona fide civilian defense organization
19 or agency, if made in the regular course of his duties with that organization or agency.

20 (c) (1) In addition to the penalty provided in subsection (b) of this section, a
21 person convicted under this section [may] SHALL be ordered by the court to pay
22 restitution to:

23 (i) The State, county, LOCAL BOARD OF EDUCATION, municipal
24 corporation, bicounty agency, or special taxing district for actual costs, INCLUDING
25 SALARIES AND WAGES, reasonably incurred due to the response to a location and
26 search for a destructive device caused by the false statement or rumor of a destructive
27 device; and

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

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

33 151C.

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

37 (b) A person who violates this section is guilty of a felony and on conviction, is
38 subject to imprisonment for not more than 10 years or a fine of not more than \$10,000
39 or both. IN ADDITION, THE COURT MAY ORDER THE MOTOR VEHICLE
40 ADMINISTRATION TO INITIATE AN ACTION, UNDER THE MOTOR VEHICLE LAWS, TO

1 SUSPEND THE DRIVING PRIVILEGE OF THE CONVICTED PERSON FOR A SPECIFIED
2 PERIOD NOT TO EXCEED 2 YEARS FROM THE DATE OF THE CONVICTION.

3 (c) (1) In addition to the penalty provided in subsection (b) of this section, a
4 person convicted under this section [may] SHALL be ordered by the court to pay
5 restitution to:

6 (i) The State, county, LOCAL BOARD OF EDUCATION, municipal
7 corporation, bicounty agency, or special taxing district for actual costs, INCLUDING
8 SALARIES AND WAGES, reasonably incurred in the search for and removal of any
9 devices representing destructive devices; and

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

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

15 **Article - Courts and Judicial Proceedings**

16 3-804.

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

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

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

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

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

33 (i) Abduction;

34 (ii) Kidnapping;

35 (iii) Second degree murder;

- 1 (iv) Manslaughter, except involuntary manslaughter;
- 2 (v) Second degree rape;
- 3 (vi) Robbery with a dangerous or deadly weapon;
- 4 (vii) Second degree sexual offense in violation of Article 27, §
5 464A(a)(1) of the Code;
- 6 (viii) Third degree sexual offense in violation of Article 27, §
7 464B(a)(1) of the Code;
- 8 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
9 446, or § 481C of the Code;
- 10 (x) Using, wearing, carrying, or transporting of firearm during and
11 in relation to a drug trafficking crime in violation of Article 27, § 281A of the Code;
- 12 (xi) Use of a firearm in violation of Article 27, § 291A of the Code;
- 13 (xii) Carjacking or armed carjacking in violation of Article 27, § 348A
14 of the Code;
- 15 (xiii) Assault in the first degree in violation of Article 27, § 12A-1 of
16 the Code;
- 17 (xiv) Attempted murder in the second degree in violation of Article
18 27, § 411A of the Code;
- 19 (xv) Attempted rape or attempted sexual offense in the second
20 degree under Article 27, § 464F of the Code; or
- 21 (xvi) Attempted robbery with a dangerous or deadly weapon under
22 Article 27, § 488 of the Code; OR
- 23 (5) A CHILD AT LEAST 44 16 YEARS OLD ALLEGED TO HAVE COMMITTED
24 A VIOLATION OF ARTICLE 27, ~~§ 139D~~ § 139C, § 151A, OR § 151C OF THE CODE.
- 25 3-820.
- 26 (d) (1) (i) Subject to the provisions of subparagraphs (iii) and (iv) of this
27 paragraph, in making a disposition on a finding that the child has committed the
28 violation specified in a citation, the court may order the Motor Vehicle Administration
29 to initiate an action, under the motor vehicle laws, to suspend the driving privilege of
30 a child licensed to operate a motor vehicle by the Motor Vehicle Administration for a
31 specified period of not less than 30 days nor more than 90 days.
- 32 (ii) In this paragraph "driver's license" means a license or permit to
33 drive a motor vehicle that is issued under the laws of this State or any other
34 jurisdiction.

1 (iii) In making a disposition on a finding that the child has
2 committed a violation under Article 27, § 400 of the Code specified in a citation that
3 involved the use of a driver's license or a document purporting to be a driver's license,
4 the court may order the Motor Vehicle Administration to initiate an action under the
5 Maryland Vehicle Law to suspend the driving privilege of a child licensed to operate a
6 motor vehicle by the Motor Vehicle Administration:

- 7 1. For a first offense, for 6 months; and
8 2. For a second or subsequent offense, until the child is 21
9 years old.

10 (iv) In making a disposition on a finding that the child has
11 committed a violation under § 26-103 of the Education Article, the court shall order
12 the Motor Vehicle Administration to initiate an action, under the motor vehicle laws,
13 to suspend the driving privilege of a child licensed to operate a motor vehicle by the
14 Motor Vehicle Administration for a specified period of not less than 30 days nor more
15 than 90 days.

16 (v) If a child subject to a suspension under this subsection does not
17 hold a license to operate a motor vehicle on the date of the disposition, the suspension
18 shall commence:

- 19 1. If the child is at least 16 years of age on the date of the
20 disposition, on the date of the disposition; or
21 2. If the child is younger than 16 years of age on the date of
22 the disposition, on the date the child reaches the child's 16th birthday.

23 (2) In addition to the dispositions under paragraph (1) of this subsection,
24 the court also may:

25 (i) Counsel the child or the parent or both, or order the child to
26 participate in an alcohol education or rehabilitation program that is in the best
27 interest of the child;

28 (ii) Impose a civil fine of not more than \$25 for the first violation
29 and a civil fine of not more than \$100 for the second and subsequent violations; or

30 (iii) Order the child to participate in a supervised work program for
31 not more than 20 hours for the first violation and not more than 40 hours for the
32 second and subsequent violations.

33 (3) (i) The provisions of paragraphs (1) and (2) of this subsection do
34 not apply to a child found to have committed a violation under Article 27, § 405A of
35 the Code.

36 (ii) In making a disposition on a finding that the child has
37 committed a violation under Article 27, § 405A of the Code, the court may:

1 1. Counsel the child or the parent or both, or order the child
2 to participate in a smoking cessation clinic, or other suitable presentation of the
3 hazards associated with tobacco use that is in the best interest of the child;

4 2. Impose a civil fine of not more than \$25 for the first
5 violation and a civil fine of not more than \$100 for a second or subsequent violation;
6 or

7 3. Order the child to participate in a supervised work
8 program for not more than 20 hours for the first violation and not more than 40 hours
9 for a second or subsequent violation.

10 (4) (I) IN MAKING A DISPOSITION ON A FINDING THAT THE CHILD HAS
11 COMMITTED A VIOLATION UNDER ARTICLE 27, ~~§ 139D~~ § 139C, § 151A, OR § 151C OF THE
12 CODE, THE COURT SHALL ORDER THE MOTOR VEHICLE ADMINISTRATION TO
13 INITIATE AN ACTION, UNDER THE MARYLAND VEHICLE LAW, TO SUSPEND THE
14 DRIVING PRIVILEGES OF A CHILD LICENSED TO OPERATE A MOTOR VEHICLE BY THE
15 MOTOR VEHICLE ADMINISTRATION UNTIL THE CHILD IS 18 YEARS OLD, OR FOR A
16 PERIOD OF 2 YEARS, WHICHEVER IS LONGER.

17 (II) IF THE CHILD HAS NOT BEEN LICENSED TO OPERATE A MOTOR
18 VEHICLE BY THE MOTOR VEHICLE ADMINISTRATION, THE COURT SHALL ORDER THE
19 MOTOR VEHICLE ADMINISTRATION NOT TO ISSUE A DRIVER'S LICENSE TO THAT
20 CHILD UNTIL THE CHILD IS 18 YEARS OLD, OR FOR A PERIOD OF 2 YEARS FROM THE
21 DATE OF DISPOSITION, WHICHEVER IS LONGER, SUBJECT TO ANY MINIMUM AGE
22 REQUIREMENTS OF THE MOTOR VEHICLE ADMINISTRATION.

23 **Article - Transportation**

24 16-206.

25 (a) (1) The Administration may suspend, revoke, or refuse to issue or renew
26 the license of any resident or the privilege to drive of any nonresident on a showing by
27 its records or other sufficient evidence that the applicant or licensee:

28 (i) Has been convicted of moving violations so often as to indicate
29 an intent to disregard the traffic laws and the safety of other persons on the
30 highways;

31 (ii) Is an unfit, unsafe, or habitually reckless or negligent driver of
32 a motor vehicle;

33 (iii) Has permitted an unlawful or fraudulent use of a license,
34 identification card, or a facsimile of a license or identification card;

35 (iv) Has used a license, identification card, or a facsimile of a license
36 or identification card in an unlawful or fraudulent manner, unless the applicant or
37 licensee is subject to the provisions of subsection (c) of this section;

1 (v) Has committed an offense in another state that, if committed in
2 this State, would be grounds for suspension or revocation; or

3 (vi) Has knowingly made a false certification of required security in
4 any application for a certificate of title or for the registration of a vehicle.

5 (2) The Administration may suspend a license to drive of an individual
6 who fails to attend:

7 (i) A driver improvement program or an alcohol education program
8 required under § 16-212 of this subtitle; or

9 (ii) A private alternative program or an alternative program that is
10 provided by a political subdivision of this State under § 16-212 of this subtitle.

11 (3) PURSUANT TO A COURT ORDER UNDER ARTICLE 27, § 139D, § 151A, OR
12 § 151C OF THE CODE, THE ADMINISTRATION:

13 (I) SHALL INITIATE AN ACTION TO SUSPEND THE DRIVING
14 LICENSE OR PRIVILEGE OF AN INDIVIDUAL FOR A TIME SPECIFIED BY THE COURT;
15 AND

16 (II) MAY ISSUE A WORK-RESTRICTED LICENSE OR
17 WORK-RESTRICTED PRIVILEGE TO DRIVE.

18 (c) (1) Pursuant to a court order under § 3-820(d) of the Courts Article, the
19 Administration shall initiate an action to suspend the driving privilege of a child for
20 the time specified by the court.

21 (2) If a child subject to a suspension under § 3-820(d) of the Courts
22 Article does not hold a license to operate a motor vehicle on the date of the court order,
23 the suspension shall commence:

24 (i) If the child is at least 16 years of age on the date of the
25 disposition, on the date of the disposition; or

26 (ii) If the child is younger than 16 years of age on the date of the
27 disposition, on the date the child reaches the child's 16th birthday.

28 (3) On receipt of a notice described under Article 27, § 403(f) of the Code,
29 the Administration shall suspend the license of an individual described under Article
30 27, § 403(f) of the Code:

31 (i) For a first offense, for 6 months; and

32 (ii) For a second or subsequent offense, until the individual is 21
33 years old or for a period of 1 year, whichever is longer.

34 (4) If an individual subject to a suspension under paragraph (3) of this
35 subsection does not hold a license to operate a motor vehicle on the date that the
36 individual is found guilty of a Code violation, the suspension shall begin on the date

1 that the license is issued, or after the individual applies and becomes qualified to
2 receive a license, or on the individual's twenty-first birthday, whichever occurs first.

3 (5) The Administration may modify a suspension under this subsection
4 or subsection (b) of this section or issue a restricted license if:

5 (i) The license is required for the purpose of attending an alcohol
6 education or alcoholic prevention or treatment program;

7 (ii) The child or individual is required to drive a motor vehicle in
8 the course of employment;

9 (iii) It finds that the individual's or child's employment would be
10 adversely affected because the individual or child has no reasonable alternative
11 means of transportation to or from a place of employment; or

12 (iv) It finds that the individual's or child's education would be
13 adversely affected because the individual or child has no reasonable alternative
14 means of transportation for educational purposes.

15 (d) (1) After the Administration refuses to issue a license under this section
16 or after the Administration determines that a suspension should be imposed under
17 subsection (a)(2) of this section, the Administration immediately shall give written
18 notice to the applicant or licensee, and the applicant or licensee may request a
19 hearing as provided in Title 12, Subtitle 2 of this article.

20 (2) AFTER THE ADMINISTRATION SUSPENDS THE DRIVING LICENSE OR
21 PRIVILEGE OF AN INDIVIDUAL UNDER SUBSECTION (A)(3) OF THIS SECTION, THE
22 ADMINISTRATION SHALL SEND WRITTEN NOTICE TO THE INDIVIDUAL, INCLUDING
23 NOTICE OF THE INDIVIDUAL'S RIGHT TO CONTEST THE ACCURACY OF THE
24 INFORMATION.

25 (3) ANY CONTEST UNDER THIS SUBSECTION SHALL BE LIMITED TO:

26 (I) WHETHER THE ADMINISTRATION HAS MISTAKEN THE
27 IDENTITY OF THE INDIVIDUAL WHOSE LICENSE OR PRIVILEGE TO DRIVE HAS BEEN
28 SUSPENDED; AND

29 (II) WHETHER THE INDIVIDUAL MAY BE ISSUED A
30 WORK-RESTRICTED LICENSE OR WORK-RESTRICTED PRIVILEGE TO DRIVE.

31 [(2)] (4) Except as otherwise provided in this section, the Administration
32 may suspend or revoke a license under this section only after a hearing under Title
33 12, Subtitle 2 of this article.

34 [(3)] (5) If the Administration determines that there is a likelihood of
35 substantial and immediate danger and harm to the licensee or others if the license is
36 continued pending a hearing, the Administration:

37 (i) Immediately may suspend the license;

1 (ii) Within 7 days of a request for a hearing, shall grant the licensee
2 a hearing as provided in Title 12, Subtitle 2 of this article; and

3 (iii) After the hearing, render an immediate decision as to whether
4 or not it should continue the suspension or revoke the license.

5 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
6 ~~October 1, 1998.~~

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
8 measure, is necessary for the immediate preservation of the public health and safety,
9 has been passed by a yea and nay vote supported by three-fifths of all the members
10 elected to each of the two Houses of the General Assembly, and shall take effect from
11 the date it is enacted.