

SENATE BILL 390

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1998 Regular Session
8r1249
CF 8r1250

By: **Senators Stone, Middlebrooks, and Kelley (Committee to Revise Article 27)**

Introduced and read first time: February 6, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable
Senate action: Adopted
Read second time: March 4, 1998

CHAPTER _____

1 AN ACT concerning

2 **Crimes - Disturbance of the Public Peace and Disorderly Conduct**

3 FOR the purpose of repealing and revising provisions of law related to disturbing the
4 peace and disorderly conduct; prohibiting certain obstructions or hindrances of
5 free passage in certain places; prohibiting persons from acting in a disorderly
6 manner to the disturbance of the public peace; prohibiting a person from
7 willfully failing to obey certain orders of law enforcement officers under certain
8 circumstances; prohibiting a person from disturbing the public peace by
9 unreasonably loud noise in certain places under certain circumstances;
10 prohibiting a person from acting in a disorderly manner under certain
11 circumstances; prohibiting certain fires in Worcester County under certain
12 circumstances; repealing provisions of law relating to interrupting or disturbing
13 certain religious organizations in a certain manner; providing that disturbing
14 the peace and disorderly conduct offenses may be charged by citation by a police
15 officer under certain circumstances; providing that the Committee Notes
16 contained in this Act are not law; defining certain terms; establishing certain
17 penalties; and generally relating to disturbing the public peace and disorderly
18 conduct.

19 BY repealing
20 Article 27 - Crimes and Punishments
21 Section 121 and 122 and the subheading "Disturbance of the Public Peace"; 123
22 and 124 and the subheading "Disorderly Conduct"; and 470 and the
23 subheading "Religious Meetings"
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 1997 Supplement)

1 BY adding to
2 Article 27 - Crimes and Punishments
3 Section 121 to be under the new subheading "Disturbing the Public Peace and
4 Disorderly Conduct"
5 Annotated Code of Maryland
6 (1996 Replacement Volume and 1997 Supplement)

7 BY repealing and reenacting, with amendments,
8 Article 27 - Crimes and Punishments
9 Section 121A and 121B to be under the new subheading "Harassment and
10 Stalking"; 125 and 594B-2
11 Annotated Code of Maryland
12 (1996 Replacement Volume and 1997 Supplement)

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

15 **Article 27 - Crimes and Punishments**

16 [Disturbance of the Public Peace]

17 [121.

18 Any person who shall wilfully obstruct or hinder the free passage of persons
19 passing along or by any public street or highway in any city, town or county of this
20 State, or who shall wilfully disturb any neighborhood in such city, town or county by
21 loud and unseemly noises, or shall profanely curse and swear or use obscene language
22 upon or near to any such street or highway within the hearing of persons passing by
23 or along such highway, or shall wilfully hinder or obstruct the free passage of persons
24 passing on or through or out of the station grounds of any railroad in the State, or who
25 shall wilfully act in a disorderly manner within such station grounds by making such
26 loud and unseemly noises, or by catching hold of and soliciting persons on said
27 grounds against the will of such person, shall, upon conviction thereof, be sentenced
28 to a fine of not less than one dollar and not more than \$500 or shall be subject to
29 imprisonment for not more than thirty days, or shall be subject to both such fine and
30 imprisonment, in the discretion of the court and shall pay costs of the prosecution.]

31 [122.

32 Any person who shall be acting in a disorderly manner to the disturbance of the
33 public peace, or who shall wilfully act in a disorderly manner by making loud and
34 unseemly noises or by profanely cursing, swearing or using obscene language, on or
35 about any public place or any steamboat wharf, dock or public waiting room, or in or
36 about the station grounds of any railroad in the State, or in or on any steamboat,
37 streetcar, electric car, railroad car, passenger train or other public conveyance, or on
38 the mall or adjacent parking areas of any combination of privately owned retail
39 establishments commonly known as a shopping center to which the general public is

1 invited for business purposes, or who shall wilfully catch hold of and solicit persons
2 against the will of said person, or obstruct their free passage to or through or out of
3 such public place, steamboat wharves, docks, public waiting rooms, railroad stations,
4 streetcars, electric cars, railroad cars, passenger trains or other public conveyances,
5 or on the mall or adjacent parking areas of any combination of privately owned retail
6 establishments commonly known as a shopping center to which the general public is
7 invited for business purposes, upon conviction thereof, is subject to a fine not
8 exceeding \$500 or imprisonment not exceeding 30 days, or both, with costs imposed in
9 the discretion of the court. Any fine shall be paid pursuant to the provisions of Article
10 38, § 4. Any person who shall commit any of the crimes, offenses or misdemeanors as
11 defined by this section may be arrested, tried and convicted as herein provided, in any
12 county or city in this State, where said public place or said shopping center may be
13 located, or in any county or city in this State, from, to or through which the said
14 streetcar, electric car, railroad car, passenger train, or other public conveyance may
15 run, or into which he may be brought by said car or other public conveyance; or in any
16 county or city in the State in which he may be found after said crimes, offenses or
17 misdemeanors have been committed. And any person who shall commit any of the
18 crimes, misdemeanors or offenses herein mentioned upon any steamboat, upon the
19 waters of the Chesapeake Bay, within the limits of this State, and without the body of
20 any county thereof, may be tried in any court of this State having jurisdiction of
21 similar crimes, offenses and misdemeanors of the county in which he may be arrested
22 or into which he may be first brought.]

23 [Disorderly Conduct]

24 [123.

25 (a) A person may not act in a disorderly manner to the disturbance of the
26 public peace, upon any public street, highway, alley, park or parking lot, or in any
27 vehicle that is in or upon any street, highway, alley, park or parking lot, in any city,
28 town, or county in this State, or at any place of public worship, or public resort or
29 amusement in any city, town or county in this State, or in any store during business
30 hours, or in any elevator, lobby or corridor of any office building or apartment house
31 having more than three separate dwelling units, or in any public building in any city,
32 town or county of this State.

33 (b) Any person violating the prohibitions of this section is guilty of a
34 misdemeanor, and upon conviction, shall be subject to a fine of not more than \$500, or
35 be confined in jail for a period of not more than 60 days or be both fined and
36 imprisoned in the discretion of the court.]

37 [124.

38 Any person who shall enter upon the land or premises of any other person,
39 whether such person be the owner or lessee of the land or premises and wilfully act in
40 a disorderly manner by making loud and unseemly noises, or by profanely cursing or
41 swearing or using obscene language or acting in any other disorderly manner while
42 thereon, shall upon conviction be subject to a fine not exceeding \$500. However, the
43 provisions of this section shall only apply to Allegany County, Anne Arundel County,

1 Calvert County, Caroline County, Cecil County, Charles County, Frederick County,
2 Garrett County, Harford County, Howard County, Montgomery County, Prince
3 George's County, St. Mary's County, Carroll County, Queen Anne's County,
4 Washington County, Worcester County, Talbot County, Wicomico County, Dorchester
5 County, Kent County and Somerset County. In Worcester County this section shall
6 also apply to beaches adjacent to residential riparian property and provided further
7 that no bonfires shall be built nor allowed to burn on any beach or other property in
8 Worcester County between the hours of 1:00 o'clock a.m. and 5:00 o'clock a.m.]

9 DISTURBING THE PUBLIC PEACE AND DISORDERLY CONDUCT

10 121.

11 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (2) (I) "PUBLIC CONVEYANCE" MEANS A CONVEYANCE TO WHICH THE
14 GENERAL PUBLIC OR A PORTION OF THE GENERAL PUBLIC HAS ACCESS AND A RIGHT
15 TO RESORT FOR TRANSPORTATION.

16 (II) "PUBLIC CONVEYANCE" IS NOT LIMITED TO A CONVEYANCE
17 DEVOTED SOLELY TO THE USES OF THE PUBLIC.

18 (III) "PUBLIC CONVEYANCE" INCLUDES AN AIRPLANE, BOAT OR
19 OTHER VESSEL, BUS, SCHOOL BUS OR SCHOOL VEHICLE, RAILWAY CAR, AND SUBWAY
20 CAR.

21 (3) (I) "PUBLIC PLACE" MEANS A PLACE TO WHICH THE GENERAL
22 PUBLIC OR A PORTION OF THE GENERAL PUBLIC HAS ACCESS AND A RIGHT TO
23 RESORT FOR BUSINESS, ENTERTAINMENT, DWELLING, OR OTHER LAWFUL PURPOSE.

24 (II) "PUBLIC PLACE" IS NOT LIMITED TO A PLACE DEVOTED SOLELY
25 TO THE USES OF THE PUBLIC.

26 (III) "PUBLIC PLACE" INCLUDES:

27 1. A SHOP, STORE, RESTAURANT, TAVERN, SHOPPING
28 CENTER, OR OTHER PLACE OF BUSINESS;

29 2. A PUBLIC BUILDING;

30 3. A PUBLIC PARKING LOT;

31 4. A PUBLIC STREET, SIDEWALK, OR RIGHT-OF-WAY;

32 5. A PUBLIC PARK OR OTHER PUBLIC GROUNDS;

33 6. THE COMMON AREAS OF ANY BUILDING CONTAINING
34 MORE THAN THREE SEPARATE DWELLING UNITS, INCLUDING A STAIRWELL,
35 ELEVATOR, LOBBY, AND CORRIDOR;

1 (6) IN WORCESTER COUNTY A PERSON MAY NOT BUILD OR ALLOW TO
2 BURN A BONFIRE ON ANY BEACH OR OTHER PROPERTY BETWEEN THE HOURS OF 1
3 A.M. AND 5 A.M.

4 (C) A PERSON WHO VIOLATES ANY PROVISION OF THIS SECTION IS GUILTY OF
5 A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN
6 \$500 OR IMPRISONMENT FOR NOT MORE THAN 60 DAYS OR BOTH.

7 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): The definition
8 of "public place" includes "an institution of elementary, secondary, or higher
9 education". See also § 26-101 of the Education Article for additional prohibitions on
10 disturbances at institutions of elementary, secondary, or higher education.

11 Both the definition of "public conveyance" and "public place" include the phrase
12 "or a portion of the public". This phrase is intended to include in these definitions
13 those conveyances and places where there is an admission charge, a membership fee,
14 or some other sort of restriction that serves to limit the class of persons who are
15 entitled to entry. For example, movie theaters (admission charge), country clubs
16 (membership fee), and school buses (access limited to school children) would be public
17 places or public conveyances.

18 Subsection (b)(1) of this section is based on current provisions in Art. 27, §§ 121
19 and 122. Subsection (b)(2) is based on Art. 27, § 123.

20 Subsection (b)(3) of this section is intended to codify the common law on failure
21 to obey the lawful order of a police officer. See, e.g., *McIntyre v. State*, 1 Md. App. 586,
22 232 A.2d 279 (1968); *Bachelor v. State*, 3 Md. App. 626, 240 A.2d 623 (1968). No
23 substantive changes are intended.

24 Subsection (b)(4) of this section is based on Art. 27, § 124. The provisions
25 concerning beaches, currently applicable only in Worcester County, have been
26 broadened to apply statewide.

27 Subsection (b)(5)(i) of this section is based on current law in Art. 27, §§ 121 and
28 122. It prohibits a person by unreasonably loud noise from disturbing the peace of
29 another on the other's land or premises. The phrase "unreasonably loud noise" is
30 taken from the case of *Eanes v. State*, 318 Md. 436, 569 A.2d 604 (1990), interpreting
31 the phrase "loud and unseemly noise" in current Art. 27, §§ 121 and 122. This
32 prohibition is intended to cover a person who is making unreasonably loud noise from
33 another location, and is disturbing the peace of others in their homes or property on
34 another location. For instance, it is intended to prevent the tenant in one apartment
35 from playing a stereo so loudly as to disturb persons in other adjacent or nearby
36 apartments. This prohibition is not intended to prohibit a person who resides on a
37 premises from disturbing the peace of another resident of the same premises. The
38 provisions of subsection (b)(4)(i) of this section cover a person who does not have a
39 possessory interest in land or a premises, but enters the land or premises and uses
40 unreasonably loud noise or acts in a disorderly manner.

41 Subsection (b)(6) of this section is current law derived without substantive
42 change from Art. 27, § 124. No changes are intended.

1 [125.] 122.

2 Any person who shall keep a disorderly house shall on conviction thereof be
3 subject to a fine of not less than fifty dollars nor more than three hundred dollars, or
4 to imprisonment in jail for not less than ten days nor more than six months, or to both
5 fine and imprisonment.

6

HARASSMENT AND STALKING

7 [121A.] 123.

8 (a) In this section "course of conduct" means a persistent pattern of conduct,
9 composed of a series of acts over a period of time, that evidences a continuity of
10 purpose.

11 (b) This section does not apply to any peaceable activity intended to express
12 political views or provide information to others.

13 (c) A person may not follow another person in or about a public place or
14 maliciously engage in a course of conduct that alarms or seriously annoys another
15 person:

16 (1) With intent to harass, alarm, or annoy the other person;

17 (2) After reasonable warning or request to desist by or on behalf of the
18 other person; and

19 (3) Without a legal purpose.

20 (d) A person who violates this section is guilty of a misdemeanor and, upon
21 conviction, is subject to a fine not exceeding \$500 or imprisonment for not more than
22 90 days or both.

23 [121B.] 124.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Course of conduct" means a persistent pattern of conduct, composed
26 of a series of acts over a period of time, that evidences a continuity of purpose.

27 (3) "Stalking" means a malicious course of conduct that includes
28 approaching or pursuing another person with intent to place that person in
29 reasonable fear:

30 (i) Of serious bodily injury or death; or

31 (ii) That a third person likely will suffer serious bodily injury or
32 death.

33 (b) A person may not engage in stalking.

1 (c) A person who violates this section is guilty of a misdemeanor and on
2 conviction is subject to a fine of not more than \$5,000 or imprisonment for not more
3 than 5 years or both.

4 (d) A sentence imposed under this section may be imposed separate from and
5 consecutive to or concurrent with a sentence for any other offense based upon the act
6 or acts establishing a violation of this section.

7 [Religious Meetings]

8 [470.

9 Whosoever shall wilfully interrupt or disturb any religious congregation, society
10 or meeting, by blowing horns, exploding firearms, horse racing, noisy, riotous or
11 disorderly conduct or conversation shall, on conviction be fined not less than one
12 dollar nor more than twenty dollars, and may be committed to jail pursuant to the
13 provisions of Article 38, § 4.]

14 594B-2.

15 (a) (1) In this section the following words have the meanings indicated.

16 (2) "Citation" means a written charging document, other than an
17 indictment, an information, or a statement of charges, alleging that a defendant has
18 committed an offense, issued to a defendant by a police officer.

19 (3) "Police officer" has the meaning stated in § 594B of this subheading.

20 (b) Subject to the provisions of subsection (c) of this section, in addition to any
21 other provision of law or rule allowing an offense to be charged by citation, the
22 following offenses may be charged by citation:

23 (1) Malicious destruction of property under § 111(b) of this article, where
24 the amount of damage to the property is less than \$300;

25 [(2) Disturbing the peace under § 122 of this article;

26 (3) Disorderly conduct under § 123 of this article; or]

27 (2) DISTURBING THE PEACE AND DISORDERLY CONDUCT UNDER § 121
28 OF THIS ARTICLE; OR

29 [(4)] (3) Misdemeanor theft, as defined under § 342(f)(2) of this article.

30 (c) A police officer may charge a defendant with an offense specified under
31 subsection (b) of this section by citation if:

32 (1) The defendant furnishes satisfactory evidence of identity; and

33 (2) The police officer has reasonable grounds to believe that the
34 defendant will comply with the requirements of the citation.

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

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 1998.