

HOUSE BILL 167

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2000 Regular Session
0lr1050
CF 0lr1049

By: **Delegate Doory (Committee to Revise Article 27) and Delegates Getty, Arnick, and Menes**

Introduced and read first time: January 19, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Accessories Before the Fact - Abrogation**

3 FOR the purpose of abrogating the distinction between an accessory before the fact
4 and a principal in a crime under certain circumstances; allowing an accessory
5 before the fact to be charged, tried and convicted, and sentenced as a principal;
6 providing that an accessory before the fact may be charged, tried and convicted,
7 and sentenced for a crime regardless of certain proceedings or dispositions
8 concerning a principal in the crime; allowing an accessory before the fact to be
9 charged, tried and convicted, and sentenced in any county where the act of
10 accessoryship occurred or where a principal in the crime may be charged, tried
11 and convicted, and sentenced; altering certain provisions concerning accessories
12 before the fact; defining certain terms; providing that certain notes contained in
13 this Act are not law; and generally relating to accessories before the fact.

14 BY repealing and reenacting, with amendments,
15 Article 27 - Crimes and Punishments
16 Section 586A and 587
17 Annotated Code of Maryland
18 (1996 Replacement Volume and 1999 Supplement)

19 BY adding to
20 Article 27 - Crimes and Punishments
21 Section 592A
22 Annotated Code of Maryland
23 (1996 Replacement Volume and 1999 Supplement)

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

1

Article 27 - Crimes and Punishments

2 586A.

3 If any person be feloniously stricken or poisoned in one county, and die of the
4 same stroke or poison in another county within one year thereafter, the offender shall
5 be tried in the court within whose jurisdiction such county lies where the stroke or
6 poison was given; and in like manner an accessory AFTER THE FACT to murder or
7 felony committed shall be tried by the court within whose jurisdiction such person
8 became accessory.

9 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): See § 592A of
10 this article for current provisions concerning accessories before the fact.

11 587.

12 If a person be feloniously stricken or poisoned on the waters of the Chesapeake
13 Bay, and not within the body of any county, and within one year thereafter die of the
14 same stroke or poison within any county of this State; or if any person be feloniously
15 stricken or poisoned in any county of this State, and within one year thereafter die of
16 the same stroke or poison on the waters of the Chesapeake Bay, and not within the
17 body of any county, the offender, his aiders, abettors and comforters, or any [person]
18 accessory [thereto] AFTER THE FACT, shall be tried in the court within whose
19 jurisdiction such county lies where the death happened, or the stroke or poison was
20 given.

21 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): See § 592A of
22 this article for current provisions concerning accessories before the fact.

23 592A.

24 (A) IN THIS SECTION, THE WORDS "ACCESSORY BEFORE THE FACT" AND
25 "PRINCIPAL" HAVE THEIR JUDICIALLY DETERMINED MEANINGS.

26 (B) EXCEPT FOR A SENTENCING PROCEEDING UNDER § 413 OF THIS ARTICLE:

27 (1) THE DISTINCTION BETWEEN AN ACCESSORY BEFORE THE FACT AND
28 A PRINCIPAL IS ABROGATED; AND

29 (2) AN ACCESSORY BEFORE THE FACT MAY BE CHARGED, TRIED AND
30 CONVICTED, AND SENTENCED AS A PRINCIPAL.

31 (C) AN ACCESSORY BEFORE THE FACT MAY BE CHARGED, TRIED AND
32 CONVICTED, AND SENTENCED FOR A CRIME REGARDLESS OF WHETHER A PRINCIPAL
33 IN THE CRIME HAS BEEN:

34 (1) CHARGED WITH THE CRIME;

35 (2) ACQUITTED OF THE CRIME; OR

36 (3) CONVICTED OF A LESSER OR DIFFERENT CRIME.

1 (D) IF A CRIME IS COMMITTED IN THE STATE, AN ACCESSORY BEFORE THE
2 FACT MAY BE CHARGED, TRIED AND CONVICTED, AND SENTENCED IN ANY COUNTY
3 WHERE:

4 (1) AN ACT OF ACCESSORYSHIP WAS COMMITTED; OR

5 (2) A PRINCIPAL IN THE CRIME MAY BE CHARGED, TRIED AND
6 CONVICTED, AND SENTENCED.

7 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
8 abolishes the common law distinctions between an accessory before the fact and a
9 principal, with the exception of death penalty sentencing proceedings.

10 Subsection (b)(2) of this section which allows an accessory to be charged as a
11 principal alters the common law in this regard. *See e.g., State v. Sowell*, 353 Md. 713,
12 728 A.2d 712 (1999). Maryland Rule 4-241 allows a defendant to demand a bill of
13 particulars from the State. This rule is intended to provide the defendant with
14 sufficient information concerning the State's case in order that the defendant can
15 prepare a defense. The Committee to Revise Article 27 believes that use of this rule
16 along with any necessary judicial enforcement when the State fails to comply with the
17 rule will provide sufficient notice to a defendant of the State's case.

18 Subsection (c) of this section codifies current law in the State regarding trial of
19 an accessory without regard to any charges or judgments concerning a principal in
20 the crime. *See e.g., Jones v. State*, 302 Md. 153, 486 A.2d 184 (1985); *Lewis v. State*,
21 285 Md. 705, 404 A.2d 1073 (1979).

22 Subsection (d) of this section alters the common law rule that provided that an
23 accessory before the fact may only be tried in the jurisdiction where the act of
24 accessoryship (*i.e.*, the aiding, counseling, commanding, or encouraging of the crime)
25 occurred. Under this statute, an accessory before the fact may be tried in either the
26 jurisdiction where the act of accessoryship occurred or in a jurisdiction where a
27 principal in the crime may be tried. It is not intended to expand venue or jurisdiction
28 concerning a principal in the crime. It is further not intended to alter any laws
29 concerning changes in venue.

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

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 October 1, 2000.