

HOUSE BILL 647

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E1

2000 Regular Session
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By: **Delegates Doory and Getty (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 10, 2000

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Robbery Revision and Value of Property or Services in Theft and**
3 **Related Offenses**

4 FOR the purpose of revising and restating the laws relating to robbery; increasing to
5 a certain amount the value of property or services subject to penalties and
6 offenses relating to destruction of property, obtaining property or services by bad
7 check, credit card offenses, theft, robbery, and extortion; establishing the
8 application of certain robbery offenses to the commission of first degree murder,
9 as an element of certain definitions of "crime of violence", as an element of an
10 aggravating circumstance for the purposes of determining certain criminal
11 sentencing, and as relating to the jurisdiction of the certain courts in certain
12 juvenile causes; repealing provisions of law relating to penalties for robbery and
13 attempted robbery, robbery with a dangerous and deadly weapon, robbery of
14 obligations, bonds, notes, and other certain documents, and certain formulas for
15 indictments or warrants for certain robbery offenses; prohibiting a person from
16 committing or attempting to commit a robbery; requiring proof of intent to
17 deprive another of property for a robbery conviction; providing that robbery
18 retains its judicially determined meaning and includes obtaining the service of
19 another by force or threat of force; prohibiting a person from committing or
20 attempting to commit a robbery with a dangerous or deadly weapon; prohibiting
21 a person from committing or attempting to commit a robbery by causing or
22 attempting to cause a serious physical injury to another; establishing certain
23 penalties; establishing a certain formula sufficient for certain charging
24 documents for certain offenses; requiring a certain jury instruction under
25 certain circumstances; establishing certain circumstances under which a felony
26 violation of theft qualifies as a lesser included offense of robbery; providing that
27 certain Committee Notes contained in this Act are not law; providing for the
28 application of this Act; defining certain terms; and generally relating to certain
29 robbery offenses and the value of property or services subject to certain offenses
30 and certain penalties under certain circumstances.

31 BY repealing and reenacting, with amendments,
32 Article 27 - Crimes and Punishments
33 Section 111, 143, 145, 340(n), 342(f), 372, 410, 413(d) and (g), 441(e), 562B, 562C,

1 and 643B(a)
2 Annotated Code of Maryland
3 (1996 Replacement Volume and 1999 Supplement)

4 BY repealing
5 Article 27 - Crimes and Punishments
6 Section 486, 487, 488, and 489
7 Annotated Code of Maryland
8 (1996 Replacement Volume and 1999 Supplement)

9 BY adding to
10 Article 27 - Crimes and Punishments
11 Section 486 through 489
12 Annotated Code of Maryland
13 (1996 Replacement Volume and 1999 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article 88B - Department of State Police
16 Section 12A(a)(8)
17 Annotated Code of Maryland
18 (1998 Replacement Volume and 1999 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Courts and Judicial Proceedings
21 Section 3-804(e), 10-402(c)(2), and 10-406
22 Annotated Code of Maryland
23 (1998 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:

26 **Article 27 - Crimes and Punishments**

27 111.

28 (a) Any person who shall wilfully and maliciously destroy, injure, deface or
29 molest any real or personal property of another shall be deemed guilty of a
30 misdemeanor.

31 (b) If the amount of damage to the property defaced, destroyed, injured, or
32 molested has a value of less than [\$300] \$500, the person who violates this section, on
33 conviction, is subject to a fine not exceeding \$500 or imprisonment not exceeding 60
34 days or both.

35 (c) If the amount of damage to the property defaced, destroyed, injured, or
36 molested has a value of [\$300] \$500 or more, the person who violates this section, on

1 conviction, is subject to a fine not exceeding \$2,500 or imprisonment not exceeding 3
2 years or both.

3 (d) (1) Except as provided in paragraph (2) of this subsection, two or more
4 acts committed in violation of this section pursuant to one scheme or continuing
5 course of conduct, whether from the same or several acts upon the property of one or
6 several property owners, may be considered as one offense and the value of damage to
7 the various properties may be aggregated in determining the penalty.

8 (2) If separate acts resulting in damage to the properties of one or
9 several owners are set forth by separate counts within the same or separate charging
10 documents, the separate counts may not be merged for sentencing.

11 (e) (1) The value of damage is not a substantive element of an offense under
12 this section and need not be set forth in the charging document.

13 (2) Notwithstanding paragraph (1) of this subsection, a determination of
14 valuation of damage shall be made based on the evidence and applied for the purpose
15 of imposing the penalties established in this section.

16 (3) If it cannot be determined from the evidence whether the value of the
17 damage to the property is more or less than [\$300] \$500, its value shall be
18 determined to be less than [\$300] \$500.

19 (f) (1) For the purposes of this section, an act of "graffiti" means a violation
20 of this section by permanent drawing, permanent painting, or making of any
21 permanent mark or inscription on the real or personal property of another without
22 the permission of the owner of the real or personal property.

23 (2) In addition to the penalties provided in subsections (b) and (c) of this
24 section, a person who violates this section by committing an act of graffiti shall be
25 ordered to pay restitution or perform community service or both.

26 (3) Except as otherwise provided by this section, the provisions of § 807
27 of this article apply to an order of restitution under this section.

28 143.

29 (a) A person convicted of obtaining property or services by a bad check when
30 the property or services has a value of [\$300] \$500 or greater is guilty of a felony and
31 shall be fined not more than \$1,000, or be imprisoned for not more than 15 years, or
32 be both fined and imprisoned in the discretion of the court.

33 (b) A person convicted of obtaining property or services by more than one bad
34 check, each of which is issued for less than [\$300] \$500, and which are issued to the
35 same person within a 30 day period, when the property or services has a cumulative
36 value of [\$300] \$500 or greater is guilty of a felony and shall be fined not more than
37 \$1,000, or be imprisoned for not more than 15 years, or be both fined and imprisoned
38 in the discretion of the court.

1 (c) A person convicted of obtaining property or services by bad check when the
2 property or services has a value of less than [\$300] \$500 is guilty of a misdemeanor
3 and shall be fined not more than \$100, or be imprisoned for not more than 18 months,
4 or be both fined and imprisoned in the discretion of the court.

5 (d) In addition to the penalties provided in this section for conviction of the
6 offense of obtaining property or services by a bad check the court may:

7 (1) Order restoration of any property which has been the object of the
8 offense and has been recovered from the defendant or another, or which is in the
9 defendant's possession or control, to any person or persons having a property interest
10 therein;

11 (2) Order restitution of the value of any property or services which has
12 been the object of the offense. The restitution may be ordered to be paid to any person
13 having a property interest in the property or the person who provided the services.
14 Restitution may be ordered to the extent that the property is not restored or
15 compensation has not been provided for the services; and

16 (3) Order the defendant to pay a collection fee of up to \$25 for each bad
17 check to the person having a property interest in the property or the person who
18 provided the services.

19 145.

20 (a) For the purposes of this section:

21 (1) "Cardholder" means the person or organization named on the face of
22 a credit card to whom or for whose benefit the credit card is issued by an issuer.

23 (2) "Credit card" means an instrument or device, whether known as a
24 credit card, credit plate, or by any other name, issued by an issuer for the use of the
25 cardholder in obtaining money, goods, services or anything else of value on credit. It
26 includes a debit or access card or other device other than a check, draft or similar
27 paper instrument used by the cardholder to effect a transfer of funds that is initiated
28 through an electronic terminal, telephone, or computer, or magnetic tape ordering,
29 instructing or authorizing a financial institution to debit or credit an account. It also
30 includes a payment device number.

31 (3) "Issuer" means the business organization or financial institution
32 which issues a credit card or its duly authorized agent.

33 (4) "Receives" or "receiving" means acquiring possession or control of a
34 credit card.

35 (5) (i) "Payment device number" means any code, account number, or
36 other means of account access, other than a check, draft, or similar paper instrument,
37 that can be used to obtain money, goods, services, or anything of value, or to initiate
38 a transfer of funds.

1 (ii) "Payment device number" does not include an encoded or
2 truncated credit card number or payment device number.

3 (b) A person who makes or causes to be made, either directly or indirectly, any
4 false statement in writing, knowing it to be false and with the intent that it be relied
5 on, respecting his identity or that of any other person, firm or corporation, for the
6 purpose of procuring the issuance of a credit card, violates this section and is subject
7 to the penalties set forth in subsection (h)(1) of this section.

8 (c) (1) A person who takes a credit card from a person, or from the
9 possession, custody or control of another without the cardholder's consent or who,
10 with knowledge that it has been so taken, receives the credit card with intent to use
11 it or to sell it or to transfer it to a person other than the issuer or the cardholder is
12 guilty of credit card theft and is subject to the penalties set forth in subsection (h)(1)
13 of this section.

14 (2) A person who receives a credit card that he knows to have been lost,
15 mislaid, or delivered under a mistake as to the identity or address of the cardholder,
16 and who retains possession with intent to use it or to sell it or to transfer it to a
17 person other than the issuer or the cardholder is guilty of a credit card theft and is
18 subject to the penalties set forth in subsection (h)(1) of this section.

19 (3) A person other than the issuer who sells a credit card or a person who
20 buys a credit card from a person other than the issuer violates this section and is
21 subject to the penalties set forth in subsection (h)(1) of this section.

22 (4) A person, other than the issuer who receives a credit card which he
23 knows was taken or retained under circumstances which constitute credit card theft
24 or a violation of subsection (b) of this section or paragraph (3) of this subsection
25 violates this subsection and is subject to the penalties set forth in subsection (h)(1) of
26 this section.

27 (5) A person who, with intent to defraud a purported issuer, a person or
28 organization providing money, goods, services or anything else of value, or any other
29 person, falsely makes or falsely embosses a purported credit card, or utters such a
30 credit card or possesses such a credit card with knowledge that such credit card has
31 been falsely made or falsely embossed is guilty of credit card forgery and is subject to
32 the penalties set forth in subsection (h)(2) of this section. A person "falsely makes" a
33 credit card when he makes or draws, in whole or in part, a device or instrument which
34 purports to be the credit card of a named issuer but which is not such a credit card
35 because the issuer did not authorize the making or drawing, or alters a credit card
36 which was validly issued. A person "falsely embosses" a credit card when, without the
37 authorization of the named issuer, he completes a credit card by adding any of the
38 matter, other than the signature of the cardholder, which an issuer requires to appear
39 on the credit card before it can be used by a cardholder.

40 (6) A person other than the cardholder or a person authorized by him
41 who, with intent to defraud the issuer, or a person or organization providing money,
42 goods, services or anything else of value, or any other person, signs a credit card is

1 guilty of credit card forgery and is subject to the penalties set forth in subsection
2 (h)(2) of this section.

3 (d) A person, who, with intent to defraud the issuer, a person or organization
4 providing money, goods, services or anything else of value, or any other person, (i)
5 uses for the purpose of obtaining money, goods, services or anything else of value a
6 credit card obtained or retained in violation of subsection (c) of this section or a credit
7 card which he knows is forged; or (ii) obtains money, goods, services or anything else
8 of value by representing without the consent of the cardholder that he is the holder of
9 a specified card or by representing that he is the holder of a card and such card has
10 not in fact been issued, violates this subsection and is subject to the penalties set forth
11 in subsection (h)(1) of this section, if the value of all money, goods, services and other
12 things of value obtained in violation of this subsection does not exceed [\$300] \$500;
13 and subject to the penalties set forth in subsection (h)(2) of this section if such value
14 exceeds [\$300] \$500.

15 (e) (1) A person who is authorized by an issuer to furnish money, goods,
16 services or anything else of value upon presentation of a credit card by the cardholder,
17 or any agent or employee of such person, who, with intent to defraud the issuer or the
18 cardholder, furnishes money, goods, services or anything else of value upon
19 presentation of a credit card obtained or retained in violation of subsection (c) of this
20 section or a credit card which he knows is forged violates this subsection and is
21 subject to the penalties set forth in subsection (h)(1) of this section, if the value of all
22 money, goods, services and other things of value furnished in violation of this
23 subsection does not exceed [\$300] \$500 and is subject to the penalties set forth in
24 subsection (h)(2) of this section if such value exceeds [\$300] \$500.

25 (2) A person who is authorized by an issuer to furnish money, goods,
26 services or anything else of value upon presentation of a credit card by the cardholder,
27 or any agent or employee of such person, who, with intent to defraud the issuer or
28 cardholder, fails to furnish money, goods, services or anything else of value which he
29 represents in writing to the issuer that he has furnished violates this subsection and
30 is subject to the penalties set forth in subsection (h)(1) of this section, if the difference
31 between the value of all money, goods, services and anything else of value actually
32 furnished and the value represented to the issuer to have been furnished does not
33 exceed [\$300] \$500, and is subject to the penalties set forth in subsection (h)(2) of this
34 section if such difference exceeds [\$300] \$500.

35 (f) A person other than the cardholder possessing an incomplete credit card,
36 with intent to complete it without the consent of the issuer or a person possessing,
37 with knowledge of its character, machinery, plates or any other contrivance designed
38 to reproduce instruments purporting to be the credit cards of an issuer who has not
39 consented to the preparation of such credit cards, violates this subsection and is
40 subject to the penalties set forth in subsection (h)(2) of this section. A credit card is
41 "incomplete" if part of the matter other than the name of the cardholder, which an
42 issuer requires to appear on the credit card, before it can be used by a cardholder, has
43 not yet been stamped, embossed, imprinted or written on it.

1 (g) A person who receives money, goods, services or anything else of value
2 obtained in violation of subsection (d) of this section, knowing or believing that it was
3 so obtained violates this subsection and is subject to the penalties set forth in
4 subsection (h)(1) of this section if the value of all money, goods, services and other
5 things of value obtained in violation of this subsection does not exceed [~~\$300~~] \$500;
6 and is subject to the penalties set forth in subsection (h)(2) of this section, if such
7 value exceeds [~~\$300~~] \$500.

8 (h) (1) A person who is subject to the penalties of this subsection shall be
9 guilty of a misdemeanor and fined a sum not to exceed \$500 or imprisoned not more
10 than 18 months, or both.

11 (2) A person who is subject to the penalties of this subsection shall be
12 guilty of a felony and fined a sum not to exceed \$1,000 or imprisoned not more than
13 15 years, or both.

14 (i) If a person commits a violation of this section pursuant to one scheme or
15 continuing course of conduct, from the same or several sources, the conduct may be
16 considered as one offense and the value of the money, goods, services, or anything else
17 of value may be aggregated in determining if the offense is a felony or a misdemeanor.

18 (j) This section shall not be construed to preclude the applicability of any
19 other provision of the criminal law of this State which presently applies or may in the
20 future apply to any transaction which violates this section, unless such provision is
21 inconsistent with the terms of this section.

22 (k) If any provision of this section or its application to any person or
23 circumstance is held invalid, the invalidity shall not affect other provisions or
24 applications of the section which can be given effect without the invalid provision or
25 application, and to this end the provisions of this section are declared to be severable.
26 340.

27 In this subheading, the following words have the meanings indicated.

28 (n) (1) "Value" means the market value of the property or service at the time
29 and place of the crime, or if the market value cannot be satisfactorily ascertained, the
30 cost of the replacement of the property within a reasonable time after the crime.

31 (2) Whether or not they have been issued or delivered, certain written
32 instruments, not including those having a readily ascertainable market value, shall
33 be evaluated as follows:

34 (i) The value of an instrument constituting an evidence of debt,
35 such as a check, draft, or promissory note, shall be determined as the amount due or
36 collectible thereon or thereby, this figure ordinarily being the face amount of the
37 indebtedness less any portion thereof which has been satisfied.

38 (ii) The value of any other instrument which creates, releases,
39 discharges, or otherwise affects any valuable legal right, privilege, or obligation shall

1 be determined as the amount of economic loss which the owner of the instrument
2 might reasonably suffer by virtue of the loss of the instrument.

3 (3) The value of a trade secret which does not have a readily
4 ascertainable market value shall be deemed any reasonable value representing the
5 damage to the owner suffered by reason of losing an advantage over those who do not
6 know of or use the trade secret.

7 (4) When it cannot be determined if the value of the property or service is
8 more or less than [~~\$300~~] \$500 by the standards set forth in this subsection, its value
9 shall be determined to be an amount less than [~~\$300~~] \$500.

10 (5) When theft is committed in violation of this subheading pursuant to
11 one scheme or continuing course of conduct, whether from the same or several
12 sources, the conduct may be considered as one offense and the value of the property or
13 services aggregated in determining whether the theft is a felony or a misdemeanor.

14 342.

15 (f) (1) A person convicted of theft where the property or services that was
16 the subject of the theft has a value of [~~\$300~~] \$500 or greater is guilty of a felony and
17 shall restore the property taken to the owner or pay him the value of the property or
18 services, and be fined not more than \$1,000, or be imprisoned for not more than 15
19 years, or be both fined and imprisoned in the discretion of the court.

20 (2) A person convicted of theft where the property or services that was
21 the subject of the theft has a value of less than [~~\$300~~] \$500 is guilty of a misdemeanor
22 and shall restore the property taken to the owner or pay him the value of the property
23 or services, and be fined not more than \$500, or be imprisoned for not more than 18
24 months, or be both fined and imprisoned in the discretion of the court; however, all
25 actions or prosecutions for theft where the property or services that was the subject of
26 the theft has a value of less than [~~\$300~~] \$500 shall be commenced within 2 years after
27 the commission of the offense.

28 372.

29 "Machine gun" as used in this subtitle, means a weapon, of any description, by
30 whatever name known, loaded or unloaded, from which more than one shot or bullet
31 may be automatically discharged from a magazine, by a single function of the firing
32 device.

33 "Crime of violence" applies to and includes any of the following crimes or an
34 attempt to commit any of the same, namely, murder of any degree, manslaughter,
35 kidnapping, rape in any degree, assault in the first degree, robbery UNDER § 486, § 487,
36 OR § 488 OF THIS ARTICLE, burglary in any degree, escape in the first degree, and
37 theft.

38 "Person" applies to and includes firm, partnership, association, or corporation.

1 410.

2 All murder which shall be committed in the perpetration of, or attempt to
3 perpetrate, any rape in any degree, sexual offense in the first or second degree,
4 sodomy, mayhem, robbery UNDER § 486, § 487, OR § 488 OF THIS ARTICLE, carjacking or
5 armed carjacking, burglary in the first, second, or third degree, a violation of § 139C
6 of this article concerning destructive devices, kidnapping as defined in §§ 337 and 338
7 of this article, or in the escape in the first degree or attempt to escape in the first
8 degree from the Patuxent Institution, any institution or facility under the jurisdiction
9 of the Division of Correction or the Division of Pretrial Detention and Services, or
10 from any jail or penal institution in any of the counties of this State, shall be murder
11 in the first degree.

12 413.

13 (d) In determining the sentence, the court or jury, as the case may be, shall
14 first consider whether, beyond a reasonable doubt, any of the following aggravating
15 circumstances exist:

16 (1) One or more persons committed the murder of a law enforcement
17 officer while in the performance of his duties;

18 (2) The defendant committed the murder at a time when he was confined
19 in any correctional institution;

20 (3) The defendant committed the murder in furtherance of an escape or
21 an attempt to escape from or evade the lawful custody, arrest, or detention of or by an
22 officer or guard of a correctional institution or by a law enforcement officer;

23 (4) The victim was taken or attempted to be taken in the course of a
24 kidnapping or abduction or an attempt to kidnap or abduct;

25 (5) The victim was a child abducted in violation of § 2 of this article;

26 (6) The defendant committed the murder pursuant to an agreement or
27 contract for remuneration or the promise of remuneration to commit the murder;

28 (7) The defendant engaged or employed another person to commit the
29 murder and the murder was committed pursuant to an agreement or contract for
30 remuneration or the promise of remuneration;

31 (8) At the time of the murder, the defendant was under sentence of death
32 or imprisonment for life;

33 (9) The defendant committed more than one offense of murder in the
34 first degree arising out of the same incident; or

35 (10) The defendant committed the murder while committing or
36 attempting to commit a carjacking, armed carjacking, robbery UNDER § 486, § 487, OR

1 § 488 OF THIS ARTICLE, arson in the first degree, rape or sexual offense in the first
2 degree.

3 (g) If the court or jury finds, beyond a reasonable doubt, that one or more of
4 these aggravating circumstances exist, it shall then consider whether, based upon a
5 preponderance of the evidence, any of the following mitigating circumstances exist:

6 (1) The defendant has not previously (i) been found guilty of a crime of
7 violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of
8 violence; or (iii) had a judgment of probation on stay of entry of judgment entered on
9 a charge of a crime of violence. As used in this paragraph, "crime of violence" means
10 abduction, arson in the first degree, escape in the first degree, kidnapping,
11 manslaughter, except involuntary manslaughter, mayhem, murder, robbery UNDER §
12 486, § 487, OR § 488 OF THIS ARTICLE, carjacking or armed carjacking, or rape or sexual
13 offense in the first or second degree, or an attempt to commit any of these offenses, or
14 the use of a handgun in the commission of a felony or another crime of violence.

15 (2) The victim was a participant in the defendant's conduct or consented
16 to the act which caused the victim's death.

17 (3) The defendant acted under substantial duress, domination or
18 provocation of another person, but not so substantial as to constitute a complete
19 defense to the prosecution.

20 (4) The murder was committed while the capacity of the defendant to
21 appreciate the criminality of his conduct or to conform his conduct to the
22 requirements of law was substantially impaired as a result of mental incapacity,
23 mental disorder or emotional disturbance.

24 (5) The youthful age of the defendant at the time of the crime.

25 (6) The act of the defendant was not the sole proximate cause of the
26 victim's death.

27 (7) It is unlikely that the defendant will engage in further criminal
28 activity that would constitute a continuing threat to society.

29 (8) Any other facts which the jury or the court specifically sets forth in
30 writing that it finds as mitigating circumstances in the case.

31 441.

32 (e) "Crime of violence" means:

33 (1) Abduction;

34 (2) Arson in the first degree;

35 (3) Assault in the first or second degree;

36 (4) Burglary in the first, second, or third degree;

- 1 (5) Carjacking and armed carjacking;
- 2 (6) Escape in the first degree;
- 3 (7) Kidnapping;
- 4 (8) Voluntary manslaughter;
- 5 (9) Maiming;
- 6 (10) Mayhem as previously proscribed under former § 384 of this article;
- 7 (11) Murder in the first or second degree;
- 8 (12) Rape in the first or second degree;
- 9 (13) Robbery UNDER § 486, § 487, OR § 488 OF THIS ARTICLE;
- 10 [(14) Robbery with a dangerous or deadly weapon;]
- 11 [(15)] (14) Sexual offense in the first, second, or third degree;
- 12 [(16)] (15) An attempt to commit any of the aforesaid offenses; or
- 13 [(17)] (16) Assault with intent to commit any of the aforesaid offenses or
- 14 any offense punishable by imprisonment for more than 1 year.

15 [486.

16 Every person convicted of the crime of robbery or attempt to rob, or as accessory
17 thereto before the fact, is guilty of a felony, shall restore the thing robbed or taken to
18 the owner, or shall pay to him the full value thereof, and be sentenced to
19 imprisonment for not more than 15 years.]

20 [486A.

21 Robbery of any obligation or bond, bill obligatory or bill of exchange, bank note
22 or notes, promissory notes for the payment of money, check or order drawn on any
23 bank of this State, or any other state, paper bill of credit, certificate granted by or
24 under the authority of this State, or of the United States, or any of them, or any last
25 will and testament or codicil, shall be punished in the same manner as robbery of
26 goods and chattels.]

27 [487.

28 In any indictment or warrant for robbery, it shall be sufficient to use a formula
29 substantially to the following effect: "That A-B on the day of, 19, in the
30 County (City) aforesaid feloniously did rob C-D (or did attempt to rob C-D, as the
31 case may be) and violently did steal (or attempt to steal, as the case may be) from him
32 dollars (here list the property stolen); contrary to the form of the Act of Assembly

1 in such cases made and provided and against the peace, government and dignity of
2 the State."]

3 [488.

4 Every person convicted of the crime of robbery or attempt to rob with a
5 dangerous or deadly weapon or accessory thereto is guilty of a felony, shall restore to
6 the owner thereof the thing robbed or taken, or shall pay him the full value thereof,
7 and be sentenced to imprisonment for not more than 20 years.]

8 [489.

9 In any indictment or warrant for robbery with a dangerous or deadly weapon
10 and attempt to rob with a dangerous or deadly weapon, it shall be sufficient to use a
11 formula substantially to the following effect: "That A-B on the day of, 19,
12 in the County (City) aforesaid feloniously with a dangerous and deadly weapon did
13 rob C-D (or did attempt with a dangerous and deadly weapon to rob C-D, as the case
14 may be) and violently did steal (or attempt to steal, as the case may be) from him
15 dollars (here list property stolen); contrary to the form of the Act of Assembly in such
16 cases made and provided and against the peace, government and dignity of the
17 State."]

18 486.

19 (A) (1) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE
20 MEANINGS INDICATED.

21 (2) "DEPRIVE" MEANS TO WITHHOLD PROPERTY OF ANOTHER:

22 (I) PERMANENTLY;

23 (II) FOR SUCH A PERIOD AS TO APPROPRIATE A PORTION OF ITS
24 VALUE;

25 (III) WITH THE PURPOSE TO RESTORE IT ONLY UPON PAYMENT OF
26 REWARD OR OTHER COMPENSATION; OR

27 (IV) TO DISPOSE OF THE PROPERTY AND USE OR DEAL WITH THE
28 PROPERTY SO AS TO MAKE IT UNLIKELY THAT THE OWNER WILL RECOVER IT.

29 (3) "OBTAIN" MEANS:

30 (I) IN RELATION TO PROPERTY, TO BRING ABOUT A TRANSFER OF
31 INTEREST OR POSSESSION, WHETHER TO THE OFFENDER OR TO ANOTHER; AND

32 (II) IN RELATION TO SERVICES, TO SECURE THE PERFORMANCE
33 THEREOF.

34 (4) "PROPERTY" MEANS ANYTHING OF VALUE, INCLUDING:

35 (I) REAL ESTATE;

- 1 (II) MONEY;
- 2 (III) COMMERCIAL INSTRUMENTS;
- 3 (IV) ADMISSION OR TRANSPORTATION TICKETS;
- 4 (V) WRITTEN INSTRUMENTS REPRESENTING OR EMBODYING
5 RIGHTS CONCERNING ANYTHING OF VALUE, OR SERVICES, OR ANYTHING
6 OTHERWISE OF VALUE TO THE OWNER;
- 7 (VI) THINGS GROWING ON OR AFFIXED TO, OR FOUND ON LAND, OR
8 PART OF OR AFFIXED TO ANY BUILDING;
- 9 (VII) ELECTRICITY, GAS, AND WATER;
- 10 (VIII) BIRDS, ANIMALS, AND FISH WHICH ORDINARILY ARE KEPT IN A
11 STATE OF CONFINEMENT;
- 12 (IX) FOOD AND DRINK;
- 13 (X) SAMPLES, CULTURES, MICROORGANISMS, SPECIMENS;
- 14 (XI) RECORDS, RECORDINGS, DOCUMENTS, BLUEPRINTS,
15 DRAWINGS, MAPS, AND WHOLE OR PARTIAL COPIES, DESCRIPTIONS, PHOTOGRAPHS,
16 PROTOTYPES OR MODELS THEREOF; OR ANY OTHER ARTICLES, MATERIALS, DEVICES,
17 SUBSTANCES, AND WHOLE OR PARTIAL COPIES, DESCRIPTIONS, PHOTOGRAPHS,
18 PROTOTYPES, OR MODELS THEREOF WHICH REPRESENT EVIDENCE, REFLECT OR
19 RECORD SECRET SCIENTIFIC, TECHNICAL, MERCHANDISING PRODUCTIONS OR
20 MANAGEMENT INFORMATION, DESIGNED PROCESS, PROCEDURE, FORMULA,
21 INVENTION, TRADE SECRET, OR IMPROVEMENT; AND
- 22 (XII) FINANCIAL INSTRUMENTS, INFORMATION, ELECTRONICALLY
23 PRODUCED DATA, COMPUTER SOFTWARE AND PROGRAMS IN EITHER MACHINE OR
24 HUMAN READABLE FORM, AND OTHER TANGIBLE OR INTANGIBLE ITEMS OF VALUE.
- 25 (5) "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY WHICH:
- 26 (I) CREATES A SUBSTANTIAL RISK OF DEATH;
- 27 (II) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
28 DISFIGUREMENT;
- 29 (III) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED LOSS
30 OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN; OR
- 31 (IV) CAUSES SERIOUS PERMANENT OR SERIOUS PROTRACTED
32 IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.
- 33 (6) "SERVICE" INCLUDES:
- 34 (I) LABOR OR PROFESSIONAL SERVICE;

1 (II) TELECOMMUNICATION, PUBLIC UTILITY, TOLL FACILITIES, OR
2 TRANSPORTATION SERVICE;

3 (III) LODGING, ENTERTAINMENT, OR RESTAURANT SERVICE; OR

4 (IV) THE USE OF EQUIPMENT, INCLUDING BUT NOT LIMITED TO
5 COMPUTERS AND OTHER DATA PROCESSING EQUIPMENT.

6 (B) (1) ROBBERY RETAINS ITS JUDICIALLY DETERMINED MEANING, EXCEPT
7 THAT A ROBBERY CONVICTION REQUIRES PROOF OF INTENT TO DEPRIVE ANOTHER
8 OF PROPERTY; OR

9 (2) ROBBERY INCLUDES OBTAINING THE SERVICE OF ANOTHER BY
10 FORCE OR THREAT OF FORCE.

11 (C) A PERSON MAY NOT COMMIT OR ATTEMPT TO COMMIT A ROBBERY.

12 (D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
13 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS.

14 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
15 retains the judicially determined meaning of robbery, but includes a proof of intent to
16 deprive another of property, which is also a required element of the crime of theft
17 under Article 27, § 342 of the Code. Also included in the offense of robbery is
18 "obtaining the service of another", which is an element of theft under § 342. The
19 definitions in subsection (a) of this section are based on the terms contained in the
20 theft definitions of Article 27, § 340.

21 Former Article 27, § 486A is repealed as unnecessary in light of the defined term
22 "property" in this section, which includes those documents and items described in
23 former Article 27, § 486A.

24 This revision retains the judicially determined meaning of robbery, generally
25 described as the felonious taking and carrying away of the personal property of
26 another, from his person or in his presence, by violence, or by putting him in fear (See
27 *Darby v. State*, 3 Md. App. 407, cert. denied, 251 Md. 748 (1968) and *State v. Gover*,
28 267 Md. 602 (1973)); and larceny from the person, accompanied by violence or putting
29 in fear (See *Tyler v. State*, 5 Md. App. 158 (1968), cert. denied, 252 Md. 733 (1969)).
30 Under common law, robbery is a specific intent crime that requires intent to
31 permanently deprive the owner of property (See *State v. Gover*, 267 Md. 602 (1973)
32 and *Hadder v. State*, 238 Md. 341 (1965)).

33 This revision is not intended to affect the separate crimes of carjacking or armed
34 carjacking under Article 27, § 348A.

35 487.

36 (A) A PERSON MAY NOT COMMIT OR ATTEMPT TO COMMIT A ROBBERY UNDER
37 § 486 OF THIS SUBHEADING WITH A DANGEROUS OR DEADLY WEAPON.

1 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
2 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

3 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section
4 establishes an enhanced penalty for robbery with a dangerous or deadly weapon
5 consistent with the penalty established under former Article 27, § 488.

6 This revision is intended to preserve the judicially determined meaning of
7 "dangerous or deadly weapon" (See *Brooks v. State*, 314 Md. 585 (1989); *Bennett v.*
8 *State*, 237 Md. 212 (1964); *Whack v. State*, 288 Md. 137 (1980) and others).

9 488.

10 (A) A PERSON MAY NOT COMMIT OR ATTEMPT TO COMMIT A ROBBERY UNDER
11 § 486 OF THIS SUBHEADING BY CAUSING OR ATTEMPTING TO CAUSE A SERIOUS
12 PHYSICAL INJURY TO ANOTHER.

13 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON
14 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.

15 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): This section is
16 new language that establishes an enhanced penalty for robbery during which the
17 offender causes or attempts to cause a serious physical injury, based on the definition
18 of "serious physical injury" in the first degree assault provisions of Article 27, § 12.

19 This section establishes a new prohibition and penalty against the commission
20 or attempted commission of a robbery by causing or attempting to cause a serious
21 physical injury to another.

22 489.

23 (A) IN ANY INDICTMENT, INFORMATION, WARRANT, OR OTHER CHARGING
24 DOCUMENT FOR ROBBERY IN §§ 486 THROUGH 488 OF THIS SUBHEADING, IT IS
25 SUFFICIENT TO USE A FORMULA SUBSTANTIALLY TO THE FOLLOWING EFFECT:
26 "THAT A-B ON THE DAY OF,, IN THE COUNTY (CITY) AFORESAID,
27 FELONIOUSLY DID ROB C-D OF (PROPERTY/SERVICE) (HAVING A VALUE OF
28 \$500 OR MORE) IN VIOLATION OF ARTICLE 27, SECTION (SECTION VIOLATED) (WITH A
29 DANGEROUS OR DEADLY WEAPON OR WHILE CAUSING OR ATTEMPTING TO CAUSE A
30 SERIOUS PHYSICAL INJURY, AS THE CASE MAY BE); CONTRARY TO THE FORM OF THE
31 ACT OF ASSEMBLY IN SUCH CASE MADE AND PROVIDED AND AGAINST THE PEACE,
32 GOVERNMENT, AND DIGNITY OF THE STATE."

33 (B) IF A CHARGING DOCUMENT ALLEGES THAT THE VALUE OF THE PROPERTY
34 OR SERVICE SUBJECT TO THIS SUBTITLE IS \$500 OR MORE, THE JURY SHALL BE
35 INSTRUCTED BY THE COURT TO DETERMINE IF THE VALUE OF THE PROPERTY OR
36 SERVICE IS:

37 (1) LESS THAN \$500; OR

38 (2) \$500 OR MORE.

1 (C) UNLESS A CHARGING DOCUMENT ALLEGES THAT THE VALUE OF THE
2 PROPERTY OR SERVICE SUBJECT TO THIS SUBTITLE IS \$500 OR MORE, A FELONY
3 VIOLATION OF § 342 OF THIS ARTICLE IS NOT A LESSER INCLUDED OFFENSE OF
4 ROBBERY.

5 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Subsection (a)
6 of this section revises and merges former Article 27, § 487 and § 489 of the Code into
7 one formula for an indictment, information, warrant, or charging document, and
8 includes the ability to list the value of the property or service that is the subject of the
9 robbery, for the purposes of charging felony theft under Article 27, § 342 of the Code.

10 Subsection (b) of this section requires a jury instruction for determining the
11 value of the property or service at less than \$500, or \$500 or more, for the purposes of
12 establishing misdemeanor or felony theft under Article 27, § 342 as a lesser included
13 offense for robbery in any degree.

14 562B.

15 Every person who obtains or attempts to obtain by extortion a sum of money,
16 real or personal property, or any thing of value of [~~\$300~~] \$500 or more from any
17 person is guilty of a felony, and upon being convicted thereof, shall be sentenced to
18 imprisonment for not more than ten years or fined not more than \$5,000, or both. If
19 the sum of money, property, or thing of value is under [~~\$300~~] \$500, the person is guilty
20 of a misdemeanor and, upon being convicted thereof, shall be sentenced to not more
21 than 18 months and be fined not more than \$500, or both. For the purposes of this
22 section, "extortion" means obtaining property from another, with his consent, induced
23 by wrongful use of actual or threatened force, or violence or by wrongful threat of
24 economic injury. This section does not apply to legitimate efforts by employees or their
25 representatives to obtain certain wages, hours or working conditions. A prosecution
26 for the felony offense under this section shall be instituted within 5 years after the
27 offense was committed.

28 562C.

29 Every officer or employee of the State of Maryland, a county, Baltimore City, a
30 municipality, or bicounty or multicounty agency, who obtains or attempts to obtain, by
31 extortion, from any person a sum of money, real or personal property, or any thing of
32 value that exceeds [~~\$300~~] \$500, is guilty of a felony and shall be fined not more than
33 \$5,000 or imprisoned not more than ten years or both and, notwithstanding any
34 pardon, shall be permanently barred from employment by the State of Maryland, any
35 county, municipality, or bicounty or multicounty agency. If the property extorted does
36 not exceed [~~\$300~~] \$500, it is a misdemeanor and the punishment shall be limited to a
37 fine of not more than \$500 or imprisonment for six months or both. For the purpose of
38 this section, "extortion" means the wrongful obtaining of the property from another
39 with his consent, which consent was obtained under color or pretense of office or
40 under color of official right, or by wrongful use of actual or threatened force, or
41 violence. A prosecution for the felony offense under this section shall be instituted
42 within 5 years after the offense was committed.

1 643B.

2 (a) As used in this section, the term "crime of violence" means abduction;
 3 arson in the first degree; kidnapping; manslaughter, except involuntary
 4 manslaughter; mayhem and maiming, as previously proscribed under §§ 384, 385,
 5 and 386 of this article; murder; rape; robbery UNDER § 486, § 487, OR § 488 OF THIS
 6 ARTICLE; [robbery with a deadly weapon;] carjacking or armed carjacking; sexual
 7 offense in the first degree; sexual offense in the second degree; use of a handgun in
 8 the commission of a felony or other crime of violence; an attempt to commit any of the
 9 aforesaid offenses; assault in the first degree; and assault with intent to murder,
 10 assault with intent to rape, assault with intent to rob, assault with intent to commit
 11 a sexual offense in the first degree, and assault with intent to commit a sexual offense
 12 in the second degree, as these crimes were previously proscribed under former § 12 of
 13 this article.

14 The term "correctional institution" includes Patuxent Institution and a local or
 15 regional jail or detention center.

16 **Article 88B - Department of State Police**

17 12A.

- 18 (a) (8) "Qualifying crime of violence" means:
- 19 (i) A violation of Article 27, § 35C of the Code that involves sexual
 20 abuse;
- 21 (ii) Rape in any degree;
- 22 (iii) A sexual offense in the first, second, or third degree;
- 23 (iv) Murder;
- 24 (v) Robbery [or robbery with a deadly weapon] UNDER ARTICLE 27,
 25 § 486, § 487, OR § 488 OF THE CODE;
- 26 (vi) First degree assault; or
- 27 (vii) Attempts to commit these offenses.

28 **Article - Courts and Judicial Proceedings**

29 3-804.

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

- 31 (1) A child at least 14 years old alleged to have done an act which, if
 32 committed by an adult, would be a crime punishable by death or life imprisonment, as
 33 well as all other charges against the child arising out of the same incident, unless an

1 order removing the proceeding to the court has been filed under Article 27, § 594A of
2 the Code;

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

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

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

13 (i) Abduction;

14 (ii) Kidnapping;

15 (iii) Second degree murder;

16 (iv) Manslaughter, except involuntary manslaughter;

17 (v) Second degree rape;

18 (vi) Robbery [with a dangerous or deadly weapon] UNDER ARTICLE
19 27, § 487 OR § 488 OF THE CODE;

20 (vii) Second degree sexual offense in violation of Article 27, §
21 464A(a)(1) of the Code;

22 (viii) Third degree sexual offense in violation of Article 27, §
23 464B(a)(1) of the Code;

24 (ix) A crime in violation of Article 27, § 36B, § 373, § 374, § 445, §
25 446, or § 481C of the Code;

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

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

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

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

33 (xiv) Attempted murder in the second degree in violation of Article
34 27, § 411A of the Code;

1 (xv) Attempted rape or attempted sexual offense in the second
2 degree under Article 27, § 464F of the Code; or

3 (xvi) Attempted robbery [with a dangerous or deadly weapon under
4 Article 27, § 488 of the Code] UNDER ARTICLE 27, § 487 OR § 488 OF THE CODE; or

5 (5) A child who previously has been convicted as an adult of a felony and
6 is subsequently alleged to have committed an act that would be a felony if committed
7 by an adult, unless an order removing the proceeding to the court has been filed
8 under Article 27, § 594A of the Code.

9 10-402.

10 (c) (2) It is lawful under this subtitle for an investigative or law enforcement
11 officer acting in a criminal investigation or any other person acting at the prior
12 direction and under the supervision of an investigative or law enforcement officer to
13 intercept a wire, oral, or electronic communication in order to provide evidence of the
14 commission of the offenses of murder, kidnapping, rape, a sexual offense in the first or
15 second degree, child abuse, child pornography, as defined under Article 27, §§ 419A
16 and 419B of the Code, gambling, robbery UNDER ARTICLE 27, § 486, § 487, OR § 488 OF
17 THE CODE, any felony punishable under the "Arson and Burning" subheading of
18 Article 27, bribery, extortion, or dealing in controlled dangerous substances, including
19 violations of Article 27, § 286B or § 287A, fraudulent insurance acts, as defined in
20 Title 27, Subtitle 4 of the Insurance Article, offenses relating to destructive devices
21 under Article 27, § 139C of the Code, or any conspiracy or solicitation to commit any
22 of these offenses, or where any person has created a barricade situation and probable
23 cause exists for the investigative or law enforcement officer to believe a hostage or
24 hostages may be involved, where the person is a party to the communication or one of
25 the parties to the communication has given prior consent to the interception.

26 10-406.

27 The Attorney General, State Prosecutor, or any State's Attorney may apply to a
28 judge of competent jurisdiction, and the judge, in accordance with the provisions of §
29 10-408 of this subtitle, may grant an order authorizing the interception of wire, oral,
30 or electronic communications by investigative or law enforcement officers when the
31 interception may provide or has provided evidence of the commission of the offense of
32 murder, kidnapping, child pornography, as defined in Article 27, §§ 419A and 419B of
33 the Code, gambling, robbery UNDER ARTICLE 27, § 486, § 487, OR § 488 OF THE CODE,
34 any felony punishable under the "Arson and Burning" subheading of Article 27 of this
35 Code, bribery, extortion, or dealing in controlled dangerous substances, offenses
36 relating to destructive devices under Article 27, § 139C of the Code, or any conspiracy
37 or solicitation to commit any of the foregoing offenses. No application or order shall be
38 required if the interception is lawful under the provisions of § 10-402(c) of this
39 subtitle.

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

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall only apply
2 to offenses committed on or after the effective date of this Act and may not be
3 construed to apply in any way to offenses committed before the effective date of this
4 Act.

5 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2000.