

HOUSE BILL 609

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HB 668/98 - JUD

2001 Regular Session
11r1030
CF 11r1031

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

Introduced and read first time: February 7, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Offensive Contact**

3 FOR the purpose of prohibiting a person from intentionally causing unreasonable
4 physical contact that does not result in physical injury, engaging in
5 unreasonable conduct with a certain intent, or attempting to cause
6 unreasonable physical contact to another under certain circumstances;
7 providing that it is not a defense that physical injury resulted; establishing
8 penalties; requiring that an offense under this Act be charged in a certain
9 manner; providing that a violation of this Act is not a lesser included offense of
10 other offenses under certain circumstances; providing that a spouse may be
11 compelled to testify as an adverse witness if there has been a previous charge of
12 offensive contact under certain circumstances; and generally relating to
13 offensive contact.

14 BY repealing and reenacting, without amendments,
15 Article 27 - Crimes and Punishments
16 Section 123(a) to be under the amended subheading "Harassment, Stalking, and
17 Offensive Contact"
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2000 Supplement)

20 BY adding to
21 Article 27 - Crimes and Punishments
22 Section 125
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 2000 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Courts and Judicial Proceedings
27 Section 9-106
28 Annotated Code of Maryland
29 (1998 Replacement Volume and 2000 Supplement)

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

3 **Article 27 - Crimes and Punishments**

4 Harassment [and], Stalking, AND OFFENSIVE CONTACT

5 123.

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

9 125.

10 (A) A PERSON MAY NOT:

11 (1) INTENTIONALLY CAUSE UNREASONABLE PHYSICAL CONTACT THAT
12 DOES NOT RESULT IN PHYSICAL INJURY TO ANOTHER WHO DOES NOT CONSENT TO
13 THE CONTACT;

14 (2) ENGAGE IN UNREASONABLE CONDUCT INTENDING TO PUT
15 ANOTHER IN FEAR OF IMMINENT OFFENSIVE PHYSICAL CONTACT; OR

16 (3) ATTEMPT TO CAUSE UNREASONABLE PHYSICAL CONTACT TO
17 ANOTHER WHO DOES NOT CONSENT TO THE ATTEMPTED CONTACT.

18 (B) IT IS NOT A DEFENSE THAT PHYSICAL INJURY RESULTED.

19 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE
20 MISDEMEANOR OF OFFENSIVE CONTACT AND ON CONVICTION IS SUBJECT TO
21 IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

22 (D) AN OFFENSE UNDER THIS SECTION MUST BE INITIATED BY FILING A
23 STATEMENT OF CHARGES, CITATION, OR CRIMINAL INFORMATION IN THE DISTRICT
24 COURT.

25 (E) UNLESS A VIOLATION OF THIS SECTION IS SPECIFICALLY CHARGED,
26 OFFENSIVE CONTACT UNDER THIS SECTION MAY NOT BE TREATED AS A LESSER
27 INCLUDED OFFENSE OF ANY OTHER OFFENSE.

28 **Article - Courts and Judicial Proceedings**

29 9-106.

30 (a) The spouse of a person on trial for a crime may not be compelled to testify
31 as an adverse witness unless the charge involves:

32 (1) The abuse of a child under 18; or

1 (2) Assault in any degree OR OFFENSIVE CONTACT UNDER ARTICLE 27, §
2 125 OF THE CODE in which the spouse is a victim if:

3 (i) The person on trial was previously charged with assault in any
4 degree [or], assault and battery, OR OFFENSIVE CONTACT of the spouse;

5 (ii) The spouse was sworn to testify at the previous trial; and

6 (iii) The spouse refused to testify at the previous trial on the basis of
7 the provisions of this section.

8 (b) (1) If the spouse of a person on trial for assault in any degree OR
9 OFFENSIVE CONTACT in which the spouse was a victim is sworn to testify at the trial
10 and refuses to testify on the basis of the provisions of this section, the clerk of the
11 court shall make and maintain a record of that refusal, including the name of the
12 spouse refusing to testify.

13 (2) When an expungement order is presented to the clerk of the court in
14 a case involving a charge of assault in any degree OR OFFENSIVE CONTACT, the clerk
15 shall check the record to determine whether the defendant's spouse refused to testify
16 on the basis of the provisions of this section.

17 (3) If the record shows such refusal, the clerk shall make and maintain a
18 separate record of the refusal, including the defendant's name, the spouse's name, the
19 case file number, a copy of the charging document, and the date of the trial in which
20 the spouse refused to testify.

21 (4) The separate record specified under paragraph (3) of this subsection:

22 (i) Is not subject to expungement under Article 27, §§ 735 through
23 741 of the Code; and

24 (ii) Shall be available only to the court, a State's Attorney's office,
25 and an attorney for the defendant.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2001.