

SENATE BILL 28
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2004 Regular Session
4r0298

(PRE-FILED)

By: **Senators Giannetti and Greenip**

Requested: July 8, 2003

Introduced and read first time: January 14, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Assault Against a Law Enforcement Officer - Penalties**

3 FOR the purpose of establishing the crime of assault against a certain law
4 enforcement officer as an assault in the second degree; prohibiting a person
5 from intentionally causing physical injury to another person knowing or having
6 reason to know that the other person is a certain law enforcement officer
7 engaged in the performance of certain duties; providing that the District Court
8 has jurisdiction that is concurrent with a circuit court in certain criminal cases
9 involving assault against certain law enforcement officers; establishing certain
10 penalties; defining a certain term; and generally relating to assault against
11 certain law enforcement officers.

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 4-301(b)(19) and (20) and 4-302(a) and (d)(1)
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2003 Supplement)

17 BY adding to
18 Article - Courts and Judicial Proceedings
19 Section 4-301(b)(21)
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2003 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Criminal Law
24 Section 3-201 and 3-203
25 Annotated Code of Maryland
26 (2002 Volume and 2003 Supplement)

27 BY repealing and reenacting, without amendments,
28 Article - Criminal Law

1 Section 3-202
2 Annotated Code of Maryland
3 (2002 Volume and 2003 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article - Public Safety
6 Section 3-101(e)
7 Annotated Code of Maryland
8 (2003 Volume)

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

11 **Article - Courts and Judicial Proceedings**

12 4-301.

13 (b) Except as provided in § 4-302 of this subtitle, the District Court also has
14 exclusive original jurisdiction in a criminal case in which a person at least 18 years
15 old or a corporation is charged with:

16 (19) Violation of § 8-604 of the Criminal Law Article; [or]

17 (20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article; OR

18 (21) VIOLATION OF § 3-203(C) OF THE CRIMINAL LAW ARTICLE.

19 4-302.

20 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
21 (14), (15), (16), (17), (18), (19), [and] (20), AND (21) of this subtitle, the District Court
22 does not have jurisdiction to try a criminal case charging the commission of a felony.

23 (d) (1) Except as provided in paragraph (2) of this subsection, the
24 jurisdiction of the District Court is concurrent with that of the circuit court in a
25 criminal case:

26 (i) In which the penalty may be confinement for 3 years or more or
27 a fine of \$2,500 or more; or

28 (ii) That is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
29 (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), [and] (20), AND (21) of this subtitle.

30 **Article - Criminal Law**

31 3-201.

32 (a) In this subtitle the following words have the meanings indicated.

1 (b) "Assault" means the crimes of assault, battery, and assault and battery,
2 which retain their judicially determined meanings.

3 (c) "LAW ENFORCEMENT OFFICER" HAS THE MEANING STATED IN § 3-101 OF
4 THE PUBLIC SAFETY ARTICLE.

5 (D) "Serious physical injury" means physical injury that:

6 (1) creates a substantial risk of death; or

7 (2) causes permanent or protracted serious:

8 (i) disfigurement;

9 (ii) loss of the function of any bodily member or organ; or

10 (iii) impairment of the function of any bodily member or organ.

11 3-202.

12 (a) (1) A person may not intentionally cause or attempt to cause serious
13 physical injury to another.

14 (2) A person may not commit an assault with a firearm, including:

15 (i) a handgun, antique firearm, rifle, shotgun, short-barreled
16 shotgun, or short-barreled rifle, as those terms are defined in § 4-201 of this article;

17 (ii) an assault pistol, as defined in § 4-301 of this article;

18 (iii) a machine gun, as defined in § 4-401 of this article; and

19 (iv) a regulated firearm, as defined in § 5-101 of the Public Safety
20 Article.

21 (b) A person who violates this section is guilty of the felony of assault in the
22 first degree and on conviction is subject to imprisonment not exceeding 25 years.

23 3-203.

24 (a) A person may not commit an assault.

25 (b) [A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A person
26 who violates SUBSECTION (A) OF this section is guilty of the misdemeanor of assault
27 in the second degree and on conviction is subject to imprisonment not exceeding 10
28 years or a fine not exceeding \$2,500 or both.

29 (C) (1) A PERSON MAY NOT INTENTIONALLY CAUSE PHYSICAL INJURY TO
30 ANOTHER PERSON IF THE PERSON KNOWS OR HAS REASON TO KNOW THAT THE
31 OTHER PERSON IS A LAW ENFORCEMENT OFFICER ENGAGED IN THE PERFORMANCE
32 OF THE OFFICER'S OFFICIAL DUTIES.

1 (2) A PERSON WHO VIOLATES PARAGRAPH (1) OF THIS SUBSECTION IS
 2 GUILTY OF THE FELONY OF SECOND DEGREE ASSAULT AND ON CONVICTION IS
 3 SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING
 4 \$5,000 OR BOTH.

5 **Article - Public Safety**

6 3-101.

7 (e) (1) "Law enforcement officer" means an individual who:

8 (i) in an official capacity is authorized by law to make arrests; and

9 (ii) is a member of one of the following law enforcement agencies:

- 10 1. the Department of State Police;
- 11 2. the Police Department of Baltimore City;
- 12 3. the Baltimore City School Police Force;
- 13 4. the Baltimore City Watershed Police Force;
- 14 5. the police department, bureau, or force of a county;
- 15 6. the police department, bureau, or force of a municipal
16 corporation;
- 17 7. the office of the sheriff of a county;
- 18 8. the police department, bureau, or force of a bicounty
19 agency;
- 20 9. the Maryland Transportation Authority Police;
- 21 10. the police forces of the Department of Transportation;
- 22 11. the police forces of the Department of Natural Resources;
- 23 12. the Field Enforcement Division of the Comptroller's
24 Office;
- 25 13. the Housing Authority of Baltimore City Police Force;
- 26 14. the Crofton Police Department;
- 27 15. the police force of the Department of Health and Mental
28 Hygiene;
- 29 16. the police force of the Department of General Services;

- 1
2 Regulation;
- 3
4
5
17. the police force of the Department of Labor, Licensing, and
18. the police forces of the University System of Maryland;
19. the police force of Morgan State University; or
20. the office of State Fire Marshal.

6 (2) "Law enforcement officer" does not include:

7 (i) an individual who serves at the pleasure of the Police
8 Commissioner of Baltimore City;

9 (ii) an individual who serves at the pleasure of the appointing
10 authority of a charter county;

11 (iii) the police chief of a municipal corporation; or

12 (iv) an officer who is in probationary status on initial entry into the
13 law enforcement agency except if an allegation of brutality in the execution of the
14 officer's duties is made.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2004.