

SENATE BILL 204

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2004 Regular Session  
4r1139  
CF 4r1891

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By: **Senators Stone and Giannetti (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: January 27, 2004

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Contradictory Statements - Prosecution and Charging**

3 FOR the purpose of prohibiting a person from willfully and falsely making an oath or  
4 affirmation as to a material fact under certain circumstances; expanding the  
5 application of a violation of this Act to include affidavits required by any state,  
6 federal, or local government or government official; providing for the  
7 prosecution of a violation of this Act involving two contradictory statements in  
8 either county in which the statements are made; establishing a certain  
9 statement that is sufficient for certain charging documents for a violation of this  
10 Act involving contradictory statements; and generally relating to contradictory  
11 statements.

12 BY repealing and reenacting, with amendments,  
13 Article - Criminal Law  
14 Section 9-101 and 9-103  
15 Annotated Code of Maryland  
16 (2002 Volume and 2003 Supplement)

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

19 **Article - Criminal Law**

20 9-101.

21 (a) A person may not willfully and falsely make an oath or affirmation AS TO  
22 A MATERIAL FACT:

- 23 (1) if the false swearing is perjury at common law;
- 24 (2) in an affidavit required by ANY STATE, FEDERAL, OR LOCAL law;
- 25 (3) in an affidavit made to induce a court or officer to pass an account or  
26 claim;

1 (4) in an affidavit required [as part of a report and return made to the  
2 General Assembly or an officer of the government] BY ANY STATE, FEDERAL, OR  
3 LOCAL GOVERNMENT OR GOVERNMENTAL OFFICIAL WITH LEGAL AUTHORITY TO  
4 REQUIRE THE ISSUANCE OF AN AFFIDAVIT; or

5 (5) in an affidavit or affirmation made under the Maryland Rules.

6 (b) A person who violates this section is guilty of the misdemeanor of perjury  
7 and on conviction is subject to imprisonment not exceeding 10 years.

8 (c) (1) If a person makes an oath or affirmation to two contradictory  
9 statements, each of which, if false, is prohibited by subsection (a) of this section, it is  
10 sufficient [for purposes of indictment] to allege, and for conviction to prove, that one  
11 of the statements is willfully false without specifying which one.

12 (2) IF THE TWO CONTRADICTORY STATEMENTS MADE IN VIOLATION OF  
13 PARAGRAPH (1) OF THIS SUBSECTION ARE MADE IN DIFFERENT COUNTIES, THE  
14 VIOLATION MAY BE PROSECUTED IN EITHER COUNTY.

15 (d) A person who violates this section is subject to § 5-106(b) of the Courts  
16 Article.

17 9-103.

18 (A) An indictment, information, or [warrant] OTHER CHARGING DOCUMENT  
19 for perjury IN VIOLATION OF § 9-101(A) OF THIS SUBTITLE is sufficient if it  
20 substantially states:

21 "(name of defendant) on (date) in (county), on examination as a witness, duly  
22 sworn to testify in (proceeding) by (court or other person administering oath) with  
23 authority to administer the oath, [unlawfully] WILLFULLY, UNLAWFULLY, and falsely  
24 swore (facts), the matters so sworn were material, and the testimony of (name of  
25 defendant) was willfully and corruptly false, in violation of (section violated) against  
26 the peace, government, and dignity of the State."

27 (B) AN INDICTMENT, INFORMATION, OR OTHER CHARGING DOCUMENT FOR  
28 PERJURY IN VIOLATION OF § 9-101(C) OF THIS SUBTITLE IS SUFFICIENT IF IT  
29 SUBSTANTIALLY STATES:

30 "(NAME OF DEFENDANT) IN (COUNTY), ON EXAMINATION AS A WITNESS, DULY  
31 SWORN TO TESTIFY IN (PROCEEDING) BY (COURT OR OTHER PERSON  
32 ADMINISTERING OATH) WITH AUTHORITY TO ADMINISTER THE OATH, ON (DATE 1)  
33 WILLFULLY SWORE (FACTS 1) AND ON (DATE 1 OR 2)(IN COUNTY 1 OR 2) WILLFULLY  
34 SWORE (FACTS 2), AND THAT THE MATTERS SO SWORN ARE MATERIAL, AND AT LEAST  
35 ONE OF THE TWO CONTRADICTORY STATEMENTS WAS WILLFULLY FALSE, IN  
36 VIOLATION OF (SECTION VIOLATED) AGAINST THE PEACE, GOVERNMENT, AND  
37 DIGNITY OF THE STATE."

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

