

SENATE BILL 701

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2004 Regular Session
4r1659
CF 4r1658

By: **Chairman, Judicial Proceedings Committee (By Request - Maryland
Judicial Conference)**

Introduced and read first time: February 6, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Third Degree Assault**

3 FOR the purpose of establishing that it is a misdemeanor to intentionally cause
4 offensive contact, engage in conduct tending to put another in fear of offensive
5 contact, or attempt to cause offensive contact; making certain provisions
6 relating to certain charging documents applicable to a certain crime; providing
7 that a certain crime is not a lesser included crime of certain other crimes under
8 certain circumstances; providing that physical injury of a certain victim is not a
9 defense to a certain charge; establishing that the District Court has exclusive
10 original jurisdiction in a criminal case in which a certain person is charged with
11 a certain crime; providing that the circuit court has jurisdiction to try a case
12 charging a violation of a certain statute under certain circumstances;
13 establishing certain penalties; defining a certain term; altering a certain
14 definition; and generally relating to the crime of third degree assault.

15 BY adding to
16 Article - Criminal Law
17 Section 3-203.1
18 Annotated Code of Maryland
19 (2002 Volume and 2003 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - Criminal Law
22 Section 3-206 and 3-209
23 Annotated Code of Maryland
24 (2002 Volume and 2003 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Courts and Judicial Proceedings
27 Section 4-301(b) and 4-302(d)
28 Annotated Code of Maryland
29 (2002 Replacement Volume and 2003 Supplement)

1 BY repealing and reenacting, with amendments,
2 Article - Family Law
3 Section 4-501(b)
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2003 Supplement)

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

8 **Article - Criminal Law**

9 3-203.1.

10 (A) IN THIS SECTION, "OFFENSIVE CONTACT" MEANS NONCONSENSUAL,
11 PHYSICAL CONTACT THAT A REASONABLE PERSON WOULD FIND TO BE OFFENSIVE
12 BUT DOES NOT RESULT IN PHYSICAL INJURY.

13 (B) A PERSON MAY NOT:

14 (1) INTENTIONALLY CAUSE OFFENSIVE CONTACT;

15 (2) ENGAGE IN CONDUCT INTENDING TO PUT ANOTHER IN FEAR OF
16 OFFENSIVE CONTACT; OR

17 (3) ATTEMPT TO CAUSE OFFENSIVE CONTACT.

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

22 3-206.

23 (a) An indictment, information, other charging document, or warrant for a
24 crime described in [§ 3-202, § 3-203, or § 3-205] § 3-202, § 3-203, § 3-203.1, OR § 3-205
25 of this subtitle is sufficient if it substantially states:

26 "(name of defendant) on (date) in (county) assaulted (name of victim) in the
27 degree or (describe other violation) in violation of (section violated) against the peace,
28 government, and dignity of the State."

29 (b) If the general form of indictment or information described in subsection (a)
30 of this section is used to charge a crime described in [§ 3-202, § 3-203, or § 3-205] §
31 3-202, § 3-203, § 3-203.1, OR § 3-205 of this subtitle in a case in the circuit court, the
32 defendant, on timely demand, is entitled to a bill of particulars.

33 (c) (1) A charge of assault in the first degree also charges a defendant with
34 assault in the second degree.

1 (2) UNLESS SPECIFICALLY CHARGED BY THE STATE, ASSAULT IN THE
2 THIRD DEGREE IS NOT A LESSER INCLUDED CRIME OF ANY OTHER CRIME.

3 (d) (1) To be found guilty of reckless endangerment under § 3-204 of this
4 subtitle, a defendant must be charged specifically with reckless endangerment.

5 (2) A charging document for reckless endangerment under § 3-204 of
6 this subtitle is sufficient if it substantially states:

7 "(name of defendant) on (date) in (county) committed reckless endangerment in
8 violation of § 3-204 of the Criminal Law Article against the peace, government, and
9 dignity of the State."

10 (3) If more than one individual is endangered by the conduct of the
11 defendant, a separate charge may be brought for each individual endangered.

12 (4) A charging document containing a charge of reckless endangerment
13 under § 3-204 of this subtitle may:

14 (i) include a count for each individual endangered by the conduct of
15 the defendant; or

16 (ii) contain a single count based on the conduct of the defendant,
17 regardless of the number of individuals endangered by the conduct of the defendant.

18 (5) If the general form of charging document described in paragraph (2)
19 of this subsection is used to charge reckless endangerment under § 3-204 of this
20 subtitle in a case in the circuit court, the defendant, on timely demand, is entitled to
21 a bill of particulars.

22 3-209.

23 (A) A person charged with a crime under [§ 3-202, § 3-203, § 3-204, or §
24 3-205] § 3-202, § 3-203, § 3-203.1, § 3-204, OR § 3-205 of this subtitle may assert any
25 judicially recognized defense.

26 (B) A PHYSICAL INJURY OF A VICTIM OF A VIOLATION OF § 3-203.1 IS NOT A
27 DEFENSE TO A CHARGE UNDER § 3-203.1 OF THIS SUBTITLE.

28 **Article - Courts and Judicial Proceedings**

29 4-301.

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

33 (1) Commission of a common-law or statutory misdemeanor regardless
34 of the amount of money or value of the property involved;

- 1 (2) Violation of § 7-104, § 7-105, § 7-107, or § 7-108 of the Criminal Law
2 Article, whether a felony or a misdemeanor;
- 3 (3) Violation of a county, municipal, or other ordinance, if the violation is
4 not a felony;
- 5 (4) Criminal violation of a State, county, or municipal rule or regulation,
6 if the violation is not a felony;
- 7 (5) Doing or omitting to do any act made punishable by a fine,
8 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or
9 regulation defining the violation if the violation is not a felony;
- 10 (6) Violation of § 8-103 of the Criminal Law Article, whether a felony or
11 a misdemeanor;
- 12 (7) Violation of §§ 8-203 through 8-209 of the Criminal Law Article,
13 whether a felony or misdemeanor;
- 14 (8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article,
15 whether a felony or misdemeanor;
- 16 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a
17 felony or a misdemeanor;
- 18 (10) Violation of § 9-1106 of the Labor and Employment Article;
- 19 (11) Violation of § 8-301 of the Criminal Law Article, whether a felony or
20 misdemeanor;
- 21 (12) Violation of § 2-209 of the Criminal Law Article;
- 22 (13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;
- 23 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;
- 24 (15) Violation of §§ 10-604 through 10-608 of the Criminal Law Article,
25 whether a felony or misdemeanor;
- 26 (16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article,
27 whether a felony or misdemeanor;
- 28 (17) Violation of § 20-102 of the Transportation Article, whether a felony
29 or misdemeanor;
- 30 (18) Violation of § 8-801 of the Criminal Law Article;
- 31 (19) Violation of § 8-604 of the Criminal Law Article; [or]
- 32 (20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article; OR

1 (21) VIOLATION OF § 3-203.1 OF THE CRIMINAL LAW ARTICLE.

2 4-302.

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

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

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

10 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
11 circuit court does not have jurisdiction to try a case charging a violation of [§ 5-601 or
12 § 5-620] § 3-203.1, § 5-601, OR § 5-620 of the Criminal Law Article.

13 (ii) A circuit court does have jurisdiction to try a case charging a
14 violation of [§ 5-601 or § 5-620] § 3-203.1, § 5-601, OR § 5-620 of the Criminal Law
15 Article if the defendant:

16 1. [Properly] EXCEPT FOR A CASE CHARGING A VIOLATION
17 OF § 3-203.1 OF THE CRIMINAL LAW ARTICLE, PROPERLY demands a jury trial;

18 2. Appeals as provided by law from a final judgment entered
19 in the District Court; or

20 3. Is charged with another offense arising out of the same
21 circumstances that is within a circuit court's jurisdiction.

22 **Article - Family Law**

23 4-501.

24 (b) (1) "Abuse" means any of the following acts:

25 (i) an act that causes serious bodily harm;

26 (ii) an act that places a person eligible for relief in fear of imminent
27 serious bodily harm;

28 (iii) assault [in any degree] OTHER THAN THIRD DEGREE ASSAULT;

29 (iv) rape or sexual offense under §§ 3-303 through 3-308 of the
30 Criminal Law Article or attempted rape or sexual offense in any degree; or

31 (v) false imprisonment.

32 (2) If the person for whom relief is sought is a child, "abuse" may also
33 include abuse of a child, as defined in Title 5, Subtitle 7 of this article. Nothing in this

1 subtitle shall be construed to prohibit reasonable punishment, including reasonable
2 corporal punishment, in light of the age and condition of the child, from being
3 performed by a parent or stepparent of the child.

4 (3) If the person for whom relief is sought is a vulnerable adult, "abuse"
5 may also include abuse of a vulnerable adult, as defined in Title 14, Subtitle 1 of this
6 article.

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