

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 204 (Senators Stone and Giannetti)  
(Committee to Revise Article 27 – Crimes and Punishments)

Judicial Proceedings

Judiciary

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

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This bill amends various provisions of State law addressing false statements or affirmations, including those that include two contradictory statements.

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**Fiscal Summary**

**State Effect:** None. The changes are procedural in nature and would not directly affect governmental finances.

**Local Effect:** None – see above.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** The bill clarifies the following provisions in State law prohibiting false oaths or affirmations:

- the false statement must address a material fact; and
- the law covers affidavits required by any State, federal, or local law; or issued by any State, federal, or local governmental official with legal authority to require that an affidavit be issued.

If two contradictory statements are made in different counties, the violation may be prosecuted in either county.

The bill also clarifies the sample language for indictments, informations, or other charging documents for false oaths or affirmations; and adds new language to address those documents that address contradictory statements. Under the new language, it is sufficient if at least one of two contradictory statements was willfully false.

**Current Law:** Under the prohibition against perjury, a person may not willfully and falsely make an oath or affirmation:

- if the false swearing is perjury at common law;
- in an affidavit required by law;
- in an affidavit made to induce a court or officer to pass an account or claim;
- in an affidavit required as part of a report and return made to the General Assembly or an officer of the government; or
- in an affidavit or affirmation made under the Maryland Rules.

A violator is guilty of the misdemeanor of perjury and on conviction is subject to imprisonment for up to 10 years.

If a person makes an oath or affirmation to two contradictory statements, each of which, if false, constitutes perjury, it is sufficient to allege and prove that one of the statements is willfully false without specifying which one.

**Background:** The New Issues Subcommittee of the Committee to Revise Article 27 has recommended that the current charging document for perjury by contradictory statements be revised. The provision currently requires only that, for charging and for conviction, there be two contradictory statements made under oath or affirmation, without specifying which one is false. This may be insufficient to charge perjury by contradictory statement, as contemplated under the statute.

The Committee to Revise Article 27 was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims' rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, leased or rented goods, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims' rights.

## Additional Information

**Prior Introductions:** None.

**Cross File:** HB 635 (Delegates Brown and Doory) (Committee to Revise Article 27 – Crimes and Punishments) – Judiciary.

**Information Source(s):** Judiciary (Administrative Office of the Courts), State’s Attorneys Association, Department of Legislative Services

**Fiscal Note History:** First Reader - February 25, 2004  
ncs/jr Revised - Senate Third Reader - March 29, 2004  
Revised - Enrolled Bill - April 22, 2004

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