

(PRE-FILED)

By: **The Speaker and Delegates Vallario, Boschert, Quinter, Barkley, Bobo, Bohanan, Bozman, Burns, Cane, G. Clagett, V. Clagett, Conroy, Conway, DeBoy, Donoghue, Feldman, Frush, Gilleland, Glassman, Gutierrez, Haynes, Healey, Heller, Holmes, Howard, Hubbard, Jones, Kach, Kaiser, King, Krysiak, Leopold, Levy, Love, Madaleno, Malone, Mandel, McMillan, Menes, Montgomery, Niemann, Patterson, Pendergrass, Petzold, Rosenberg, Ross, Stern, Vaughn, and Zirkin**

Requested: November 15, 2004

Introduced and read first time: January 12, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Law Enforcement Officer Protection Act**

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 or attempting to cause physical injury to another
6 knowing or having reason to know that the other is a certain law enforcement
7 officer engaged in the performance of certain duties; providing that the District
8 Court has jurisdiction that is concurrent with a circuit court in certain criminal
9 cases involving assault against certain law enforcement officers; establishing
10 certain penalties; defining a certain term; and generally relating to assault
11 against certain law enforcement officers.

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 4-301(b)(20) and (21) and 4-302(a) and (d)(1)
15 Annotated Code of Maryland
16 (2002 Replacement Volume and 2004 Supplement)

17 BY adding to
18 Article - Courts and Judicial Proceedings
19 Section 4-301(b)(22)
20 Annotated Code of Maryland
21 (2002 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Criminal Law
24 Section 3-201 and 3-203

1 Annotated Code of Maryland
2 (2002 Volume and 2004 Supplement)

3 BY repealing and reenacting, without amendments,
4 Article - Criminal Law
5 Section 3-202
6 Annotated Code of Maryland
7 (2002 Volume and 2004 Supplement)

8 BY repealing and reenacting, without amendments,
9 Article - Public Safety
10 Section 3-101(e)
11 Annotated Code of Maryland
12 (2003 Volume and 2004 Supplement)

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

15 **Article - Courts and Judicial Proceedings**

16 4-301.

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

20 (20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;
21 [or]

22 (21) Violation of §§ 16-801 through 16-804 of the Election Law Article; OR

23 (22) VIOLATION OF § 3-203(C) OF THE CRIMINAL LAW ARTICLE.

24 4-302.

25 (a) Except as provided in § 4-301(b)(2), (6), (7), (8), (9), (10), (11), (12), (13),
26 (14), (15), (16), (17), (18), (19), (20), [and] (21), AND (22) of this subtitle, the District
27 Court does not have jurisdiction to try a criminal case charging the commission of a
28 felony.

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

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

1 (ii) That is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
2 (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), [and] (21), AND (22) of this
3 subtitle.

4 **Article - Criminal Law**

5 3-201.

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

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

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

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

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

13 (2) causes permanent or protracted serious:

14 (i) disfigurement;

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

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

17 3-202.

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

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

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

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

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

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

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

29 3-203.

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

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

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

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

13 **Article - Public Safety**

14 3-101.

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

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

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

18 1. the Department of State Police;

19 2. the Police Department of Baltimore City;

20 3. the Baltimore City School Police Force;

21 4. the Baltimore City Watershed Police Force;

22 5. the police department, bureau, or force of a county;

23 6. the police department, bureau, or force of a municipal
24 corporation;

25 7. the office of the sheriff of a county;

26 8. the police department, bureau, or force of a bicounty
27 agency;

28 9. the Maryland Transportation Authority Police;

29 10. the police forces of the Department of Transportation;

30 11. the police forces of the Department of Natural Resources;

31 12. the Field Enforcement Division of the Comptroller's
32 Office;

- 1 13. the Housing Authority of Baltimore City Police Force;
- 2 14. the Crofton Police Department;
- 3 15. the police force of the Department of Health and Mental
4 Hygiene;
- 5 16. the police force of the Department of General Services;
- 6 17. the police force of the Department of Labor, Licensing, and
7 Regulation;
- 8 18. the police forces of the University System of Maryland;
- 9 19. the police force of Morgan State University; or
- 10 20. the office of State Fire Marshal.

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

- 12 (i) an individual who serves at the pleasure of the Police
13 Commissioner of Baltimore City;
- 14 (ii) an individual who serves at the pleasure of the appointing
15 authority of a charter county;
- 16 (iii) the police chief of a municipal corporation;
- 17 (iv) an officer who is in probationary status on initial entry into the
18 law enforcement agency except if an allegation of brutality in the execution of the
19 officer's duties is made; or
- 20 (v) a Montgomery County fire and explosive investigator as defined
21 in § 2-208.1 of the Criminal Procedure Article.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2005.