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

Introduced and read first time: February 9, 2005

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Offensive Contact**

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; providing for the form of certain
6 charging documents; providing that a certain crime is not a lesser included
7 crime of certain other crimes under certain circumstances; providing that
8 physical injury of a certain victim is not a defense to a certain charge;
9 establishing that the District Court has exclusive original jurisdiction in a
10 criminal case in which a certain person is charged with a certain crime;
11 providing that the circuit court has jurisdiction to try a case charging a violation
12 of a certain statute under certain circumstances; establishing certain penalties;
13 defining a certain term; and generally relating to the crime of offensive contact.

14 BY adding to
15 Article - Criminal Law
16 Section 3-203.1
17 Annotated Code of Maryland
18 (2002 Volume and 2004 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article - Criminal Law
21 Section 3-206 and 3-209
22 Annotated Code of Maryland
23 (2002 Volume and 2004 Supplement)

24 BY repealing and reenacting, with amendments,
25 Article - Courts and Judicial Proceedings
26 Section 4-301(b) and 4-302(d)
27 Annotated Code of Maryland
28 (2002 Replacement Volume and 2004 Supplement)

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

3 **Article - Criminal Law**

4 3-203.1.

5 (A) (1) IN THIS SECTION, "OFFENSIVE CONTACT" MEANS NONCONSENSUAL,
6 PHYSICAL CONTACT THAT A REASONABLE PERSON WOULD FIND TO BE OFFENSIVE.

7 (2) "OFFENSIVE CONTACT" DOES NOT INCLUDE:

8 (I) CONTACT THAT RESULTS IN PHYSICAL INJURY;

9 (II) CONTACT THAT CAUSES A RISK OF SERIOUS PHYSICAL INJURY;
10 OR

11 (III) CONTACT WITH A PERSON ELIGIBLE FOR A RELIEF, AS
12 DEFINED IN § 4-501 OF THE FAMILY LAW ARTICLE.

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 OFFENSIVE CONTACT AND ON CONVICTION IS SUBJECT TO
20 IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR BOTH.

21 3-206.

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

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

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

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

1 (D) (1) UNLESS SPECIFICALLY CHARGED BY THE STATE, OFFENSIVE
2 CONTACT UNDER § 3-203.1 OF THIS SUBTITLE IS NOT A LESSER INCLUDED CRIME OF
3 ANY OTHER CRIME.

4 (2) A CHARGING DOCUMENT OR WARRANT FOR A CRIME DESCRIBED IN §
5 3-203.1 OF THIS SUBTITLE IS SUFFICIENT IF IT SUBSTANTIALLY STATES:

6 "(NAME OF THE DEFENDANT) ON (DATE) IN (COUNTY) COMMITTED OFFENSIVE
7 CONTACT AGAINST (NAME OF VICTIM) IN VIOLATION OF § 3-203.1 OF THE CRIMINAL
8 LAW ARTICLE AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE STATE."

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

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

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

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

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

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

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

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

28 3-209.

29 (A) A person charged with a crime under [§ 3-202, § 3-203, § 3-204, or §
30 3-205] § 3-202, § 3-203, § 3-203.1, § 3-204, OR § 3-205 of this subtitle may assert any
31 judicially recognized defense.

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

1

Article - Courts and Judicial Proceedings

2 4-301.

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

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

8 (2) Violation of § 7-104, § 7-105, § 7-107, or § 7-108 of the Criminal Law
9 Article, whether a felony or a misdemeanor;

10 (3) Violation of a county, municipal, or other ordinance, if the violation is
11 not a felony;

12 (4) Criminal violation of a State, county, or municipal rule or regulation,
13 if the violation is not a felony;

14 (5) Doing or omitting to do any act made punishable by a fine,
15 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or
16 regulation defining the violation if the violation is not a felony;

17 (6) Violation of § 8-103 of the Criminal Law Article, whether a felony or
18 a misdemeanor;

19 (7) Violation of §§ 8-203 through 8-209 of the Criminal Law Article,
20 whether a felony or misdemeanor;

21 (8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article,
22 whether a felony or misdemeanor;

23 (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a
24 felony or a misdemeanor;

25 (10) Violation of § 9-1106 of the Labor and Employment Article;

26 (11) Violation of § 8-301 of the Criminal Law Article, whether a felony or
27 misdemeanor;

28 (12) Violation of § 2-209 of the Criminal Law Article;

29 (13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;

30 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;

31 (15) Violation of §§ 10-604 through 10-608 of the Criminal Law Article,
32 whether a felony or misdemeanor;

- 1 (16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article,
2 whether a felony or misdemeanor;
- 3 (17) Violation of § 20-102 of the Transportation Article, whether a felony
4 or misdemeanor;
- 5 (18) Violation of § 8-801 of the Criminal Law Article;
- 6 (19) Violation of § 8-604 of the Criminal Law Article;
- 7 (20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;
8 [or]
- 9 (21) Violation of §§ 16-801 through 16-804 of the Election Law Article; OR
- 10 (22) VIOLATION OF § 3-203.1 OF THE CRIMINAL LAW ARTICLE.
11 4-302.

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

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

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

19 (2) (i) Except as provided in subparagraph (ii) of this paragraph, a
20 circuit court does not have jurisdiction to try a case charging a violation of [§ 5-601 or
21 § 5-620] § 3-203.1, § 5-601, OR § 5-620 of the Criminal Law Article.

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

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

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

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

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