

(PRE-FILED)

By: **Senators Miller, Giannetti, Greenip, Haines, Garagiola, Jacobs,
Forehand, Jimeno, Stone, and Green**

Requested: November 15, 2004

Introduced and read first time: January 12, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Assault Against a Law Enforcement Officer - Penalties**

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 physical injury to another person knowing or having
6 reason to know that the other person is a certain law enforcement officer
7 engaged in the performance of certain duties; providing that the District Court
8 has jurisdiction that is concurrent with a circuit court in certain criminal cases
9 involving assault against certain law enforcement officers; establishing certain
10 penalties; defining certain terms; and generally relating to assault against
11 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 3-203
25 Annotated Code of Maryland
26 (2002 Volume and 2004 Supplement)

27 BY repealing and reenacting, without amendments,

1 Article - Public Safety
2 Section 3-101(e)(1)
3 Annotated Code of Maryland
4 (2003 Volume and 2004 Supplement)

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

7 **Article - Courts and Judicial Proceedings**

8 4-301.

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

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

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

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

16 4-302.

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

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

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

26 (ii) That is a felony, as provided in § 4-301(b)(2), (6), (7), (8), (9),
27 (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), [and] (21), AND (22) of this
28 subtitle.

29 **Article - Criminal Law**

30 3-203.

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

32 (b) [A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A person
33 who violates SUBSECTION (A) OF this section is guilty of the misdemeanor of assault

1 in the second degree and on conviction is subject to imprisonment not exceeding 10
2 years or a fine not exceeding \$2,500 or both.

3 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
4 MEANINGS INDICATED.

5 (II) "LAW ENFORCEMENT OFFICER" MEANS AN INDIVIDUAL WHO:

6 1. WHILE ACTING IN AN OFFICIAL CAPACITY, IS
7 AUTHORIZED BY LAW TO MAKE ARRESTS AND CARRY A FIREARM; AND

8 2. A. IS A MEMBER OF, OR IN PROBATIONARY STATUS ON
9 INITIAL ENTRY TO, ONE OF THE LAW ENFORCEMENT AGENCIES SPECIFIED IN §
10 3-101(E)(1) OF THE PUBLIC SAFETY ARTICLE; OR

11 B. IN A CHARTER COUNTY, SERVES AT THE PLEASURE OF
12 THE APPOINTING AUTHORITY.

13 (III) "PHYSICAL INJURY" MEANS ANY IMPAIRMENT OF PHYSICAL
14 CONDITION, EXCLUDING MINOR INJURIES.

15 (2) A PERSON MAY NOT INTENTIONALLY CAUSE PHYSICAL INJURY TO
16 ANOTHER PERSON IF THE PERSON KNOWS OR HAS REASON TO KNOW THAT THE
17 OTHER PERSON IS A LAW ENFORCEMENT OFFICER ENGAGED IN THE PERFORMANCE
18 OF THE OFFICER'S OFFICIAL DUTIES.

19 (3) A PERSON WHO VIOLATES PARAGRAPH (2) OF THIS SUBSECTION IS
20 GUILTY OF THE FELONY OF SECOND DEGREE ASSAULT AND ON CONVICTION IS
21 SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING
22 \$5,000 OR BOTH.

23 **Article - Public Safety**

24 3-101.

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

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

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

28 1. the Department of State Police;

29 2. the Police Department of Baltimore City;

30 3. the Baltimore City School Police Force;

31 4. the Baltimore City Watershed Police Force;

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

- 1
2 corporation;
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5 agency;
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10 Office;
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14 Hygiene;
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17 Regulation;
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6. the police department, bureau, or force of a municipal
7. the office of the sheriff of a county;
8. the police department, bureau, or force of a bicounty
9. the Maryland Transportation Authority Police;
10. the police forces of the Department of Transportation;
11. the police forces of the Department of Natural Resources;
12. the Field Enforcement Division of the Comptroller's
13. the Housing Authority of Baltimore City Police Force;
14. the Crofton Police Department;
15. the police force of the Department of Health and Mental
16. the police force of the Department of General Services;
17. the police force of the Department of Labor, Licensing, and
18. the police forces of the University System of Maryland;
19. the police force of Morgan State University; or
20. the office of State Fire Marshal.

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