

(PRE-FILED)

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

Requested: November 15, 2004

Introduced and read first time: January 12, 2005

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 3, 2005

CHAPTER _____

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,

1 Article - Criminal Law
 2 Section 3-203
 3 Annotated Code of Maryland
 4 (2002 Volume and 2004 Supplement)

5 BY repealing and reenacting, without amendments,

6 Article - Criminal Procedure
 7 Section 2-101(c)
 8 Annotated Code of Maryland
 9 (2001 Volume and 2004 Supplement)

10 BY repealing and reenacting, without amendments,

11 Article - Public Safety
 12 Section 3-101(e)(1)
 13 Annotated Code of Maryland
 14 (2003 Volume and 2004 Supplement)

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

17 **Article - Courts and Judicial Proceedings**

18 4-301.

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

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

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

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

26 4-302.

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

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

34 (i) In which the penalty may be confinement for 3 years or more or
 35 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 3-203.

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

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

11 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
12 MEANINGS INDICATED.

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

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

16 2. A. IS A MEMBER OF, OR IN PROBATIONARY STATUS ON
17 INITIAL ENTRY TO, ONE OF THE LAW ENFORCEMENT AGENCIES SPECIFIED IN §
18 3-101(E)(1) OF THE PUBLIC SAFETY ARTICLE;

19 B. IS A POLICE OFFICER AS DEFINED IN § 2-101 OF THE
20 CRIMINAL PROCEDURE ARTICLE; OR

21 ~~B.~~ C. IN A CHARTER COUNTY, SERVES AT THE PLEASURE
22 OF THE APPOINTING AUTHORITY.

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

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

29 (3) A PERSON WHO VIOLATES PARAGRAPH (2) OF THIS SUBSECTION IS
30 GUILTY OF THE FELONY OF SECOND DEGREE ASSAULT AND ON CONVICTION IS
31 SUBJECT TO IMPRISONMENT NOT EXCEEDING 15 YEARS OR A FINE NOT EXCEEDING
32 \$5,000 OR BOTH.

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Article - Criminal Procedure2 2-101.

3 (c) "Police officer" means a person who in an official capacity is authorized by
4 law to make arrests and is:

5 (1) a member of the Department of State Police;

6 (2) a member of the Police Department of Baltimore City;

7 (3) a member of the Baltimore City School Police Force;

8 (4) a member of the police department, bureau, or force of a county;

9 (5) a member of the police department, bureau, or force of a municipal
10 corporation;

11 (6) a member of the Maryland Transit Administration Police Force,
12 Maryland Port Administration Police Force, or Maryland Transportation Authority
13 Police Force;

14 (7) a member of the University of Maryland Police Force or Morgan State
15 University Police Force;

16 (8) a special police officer who is appointed to enforce the law and
17 maintain order on or protect property of the State or any of its units;

18 (9) a member of the Department of General Services security force;

19 (10) the sheriff of a county whose usual duties include the making of
20 arrests;

21 (11) a regularly employed deputy sheriff of a county who is compensated
22 by the county and whose usual duties include the making of arrests;

23 (12) a member of the Natural Resources Police Force of the Department of
24 Natural Resources;

25 (13) an authorized employee of the Field Enforcement Division of the
26 Comptroller's Office;

27 (14) a member of the Maryland-National Capital Park and Planning
28 Commission Park Police;

29 (15) a member of the Housing Authority of Baltimore City Police Force;

30 (16) a member of the Crofton Police Department;

31 (17) a member of the WMATA Metro Transit Police, subject to the
32 jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan

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