
By: **Senator Giannetti**

Introduced and read first time: February 4, 2005

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Jurisdiction for Electronic and Other Crimes -**
3 **Territorial Applicability**

4 FOR the purpose of establishing a certain State policy with regard to jurisdiction over
5 certain crimes and persons; establishing that a person shall be subject to
6 prosecution in this State for certain offenses committed while the person is
7 physically located either within or outside this State under certain
8 circumstances; establishing that a person shall be subject to prosecution in this
9 State for certain conduct committed either wholly or partly within this State
10 under certain circumstances; establishing that a person shall be subject to
11 prosecution in this State for certain conduct committed wholly outside this State
12 that constitutes an attempt to commit an offense within this State under certain
13 circumstances; establishing that a person shall be subject to prosecution in this
14 State for certain conduct committed wholly outside this State that constitutes a
15 conspiracy to commit an offense within this State under certain circumstances;
16 establishing that a person shall be subject to prosecution in this State for certain
17 conduct committed wholly or partly within this State that constitutes an
18 attempt, solicitation, or conspiracy to commit an offense in another jurisdiction
19 that is also an offense under the law of this State under certain circumstances;
20 establishing that a person shall be subject to prosecution in this State for
21 omitting to perform outside this State a certain duty imposed by the law of this
22 State under certain circumstances; establishing that a person shall be subject to
23 prosecution in this State for violating a law of this State that prohibits certain
24 conduct outside the State; establishing that a person shall be subject to
25 prosecution in this State for certain offenses committed under certain
26 circumstances if jurisdiction is otherwise provided by law; establishing that a
27 person shall be subject to prosecution in this State for the offense of homicide
28 under certain circumstances; establishing that the State's jurisdictional
29 territory includes certain land and water and the airspace above the land and
30 water within which the State has legislative jurisdiction; providing for the
31 application of this Act; and generally relating to criminal procedure and
32 jurisdiction.

33 BY adding to

34 Article - Criminal Procedure

1 Section 4-201 to be under the amended subtitle "Subtitle 2. Jurisdiction, Venue,
2 and Other Procedural Matters"
3 Annotated Code of Maryland
4 (2001 Volume and 2004 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article - Criminal Procedure
7 Section 4-201
8 Annotated Code of Maryland
9 (2001 Volume and 2004 Supplement)

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

12 **Article - Criminal Procedure**

13 Subtitle 2. [Venue and] JURISDICTION, VENUE, AND Other Procedural Matters.
14 4-201.

15 (A) IT IS THE POLICY OF THIS STATE TO EXERCISE ITS JURISDICTION OVER
16 CRIME AND PERSONS CHARGED WITH THE COMMISSION OF CRIME TO THE FULLEST
17 EXTENT ALLOWABLE UNDER, AND CONSISTENT WITH, THE UNITED STATES
18 CONSTITUTION AND THE MARYLAND CONSTITUTION.

19 (B) A PERSON SHALL BE SUBJECT TO PROSECUTION IN THIS STATE FOR AN
20 OFFENSE THE PERSON COMMITS WHILE THE PERSON IS PHYSICALLY LOCATED
21 EITHER WITHIN OR OUTSIDE THIS STATE, BY THE PERSON'S OWN CONDUCT OR THAT
22 OF ANOTHER FOR WHICH THE PERSON IS LEGALLY ACCOUNTABLE, IF:

23 (1) THE OFFENSE IS COMMITTED EITHER WHOLLY OR PARTLY WITHIN
24 THIS STATE;

25 (2) THE PERSON'S CONDUCT COMMITTED WHOLLY OUTSIDE THIS STATE
26 CONSTITUTES AN ATTEMPT TO COMMIT AN OFFENSE WITHIN THIS STATE;

27 (3) THE PERSON'S CONDUCT COMMITTED WHOLLY OUTSIDE THIS STATE
28 CONSTITUTES A CONSPIRACY TO COMMIT AN OFFENSE WITHIN THIS STATE, AND AN
29 OVERT ACT IN FURTHERANCE OF THE CONSPIRACY WAS COMMITTED WITHIN THIS
30 STATE, EITHER DIRECTLY BY THE PERSON OR AT THE PERSON'S INSTIGATION;

31 (4) THE PERSON'S CONDUCT COMMITTED WHOLLY OR PARTLY WITHIN
32 THIS STATE CONSTITUTES AN ATTEMPT, SOLICITATION, OR CONSPIRACY TO COMMIT
33 AN OFFENSE IN ANOTHER JURISDICTION THAT ALSO IS AN OFFENSE UNDER THE
34 LAW OF THIS STATE;

35 (5) THE OFFENSE CONSISTS OF AN OMISSION TO PERFORM OUTSIDE
36 THIS STATE A DUTY IMPOSED BY THE LAW OF THIS STATE WITH RESPECT TO

1 DOMICILE, RESIDENCE, OR A RELATIONSHIP TO A PERSON, THING, OR TRANSACTION
2 IN THIS STATE;

3 (6) THE OFFENSE IS A VIOLATION OF A LAW OF THIS STATE THAT
4 PROHIBITS CERTAIN CONDUCT OUTSIDE THE STATE; OR

5 (7) JURISDICTION IS OTHERWISE PROVIDED BY LAW.

6 (C) A PERSON SHALL BE SUBJECT TO PROSECUTION IN THIS STATE FOR THE
7 OFFENSE OF HOMICIDE IF ANY OF THE FOLLOWING OCCUR WITHIN THIS STATE:

8 (1) THE DEATH OF THE VICTIM;

9 (2) THE BODILY IMPACT WHICH CAUSES THE VICTIM'S DEATH; OR

10 (3) THE DISCOVERY OF THE BODY OF THE VICTIM.

11 (D) THIS STATE'S JURISDICTIONAL TERRITORY INCLUDES THE LAND AND
12 WATER WITHIN ITS BOUNDARIES AND THE AIR SPACE ABOVE THE LAND AND WATER
13 WITHIN WHICH THE STATE HAS LEGISLATIVE JURISDICTION.

14 [4-201.] 4-201.1.

15 (a) In the District Court, a prosecution for a crime shall be brought in the
16 district that includes the county where the crime was committed, and the trial shall
17 be held in that county unless the case is lawfully removed.

18 (b) If a person is feloniously stricken or poisoned in a county and dies in
19 another county of the same stroke or poison, a prosecution for the felony shall be
20 brought in the county where the stroke or poison was given.

21 (c) A prosecution may be brought in the county in which the defendant is
22 arrested or first brought if the prosecution is for:

23 (1) a crime committed on the waters of the Chesapeake Bay and not in a
24 county;

25 (2) aiding, abetting, or comforting the perpetrator of such a crime; or

26 (3) being an accessory to such a crime.

27 (d) If a person is feloniously stricken or poisoned on the waters of the
28 Chesapeake Bay and not in a county, and dies of the same stroke or poison in a county,
29 a prosecution for the felony, or for being an accessory to the felony, shall be brought in
30 the county where the person died.

31 (e) If a person is feloniously stricken or poisoned in a county, and dies of the
32 same stroke or poison on the waters of the Chesapeake Bay and not in a county, a
33 prosecution for the felony, or for being an accessory to the felony, shall be brought in
34 the county where the stroke or poison was given.

1 (f) (1) In this subsection, "common carrier" means a steamboat, railroad
2 train, motor bus, airplane, or other means of intercity or interstate public
3 transportation.

4 (2) Subject to paragraph (3) of this subsection, a prosecution for an
5 indictable crime committed on a common carrier may be brought, and a District Court
6 commissioner may hold the defendant to bail if the crime is bailable, in any county
7 from, to, or through which the common carrier runs.

8 (3) If the accused is held to bail under this subsection by a District Court
9 commissioner, prosecution for the crime shall be in the county where the defendant is
10 held.

11 (g) (1) A prosecution for a crime may be brought in the county in which
12 process for the arrest and prosecution of the defendant is first issued if:

13 (i) the crime was committed at the boundary between counties; or

14 (ii) the boundary is so uncertain or the site of the crime is so near to
15 the boundary that it is doubtful in which county the crime was committed.

16 (2) To establish the venue alleged in the charging document, the State
17 need only prove that a set of facts in paragraph (1)(i) or (ii) of this subsection is true.

18 (h) Except as otherwise provided by law, a prosecution of a person for being an
19 accessory after the fact to murder or other felony shall be brought in the county in
20 which the person became an accessory.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
22 construed to apply only prospectively and may not be applied or interpreted to have
23 any effect on or application to any offense committed before the effective date of this
24 Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2005.