
By: **Delegates Elmore, Aumann, Barkley, Bartlett, Bates, Bohanan, Boschert, Boteler, Bozman, Bromwell, Brown, Cane, Cluster, Conway, Cryor, DeBoy, Donoghue, Dumais, Dwyer, Eckardt, Edwards, Elliott, Frank, Gilleland, Glassman, Haddaway, Hogan, Impallaria, Jameson, Jennings, Kach, King, Kohl, Krebs, Kullen, Leopold, Levy, Mayer, McComas, McKee, McMillan, Miller, Minnick, Myers, O'Donnell, Parrott, Petzold, Rudolph, Shank, Shewell, Smigiel, Sophocleus, Sossi, Stocksdale, Stull, Trueschler, Walkup, Weir, Weldon, and Wood**

Introduced and read first time: January 23, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Assault Against a Law Enforcement Officer - Division of Correction**
3 **Employee - Bodily Fluids**

4 FOR the purpose of providing that certain employees of the Division of Correction are
5 included in a certain definition applicable to the crime of assault against a law
6 enforcement officer; prohibiting a person from assaulting another by use of
7 bodily fluids under certain circumstances; and generally relating to the crime of
8 assault against a law enforcement officer.

9 BY repealing and reenacting, with amendments,
10 Article - Criminal Law
11 Section 3-201 and 3-203
12 Annotated Code of Maryland
13 (2002 Volume and 2005 Supplement)

14 BY repealing and reenacting, without amendments,
15 Article - Public Safety
16 Section 3-101(e)
17 Annotated Code of Maryland
18 (2003 Volume and 2005 Supplement)

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

1 **Article - Criminal Law**

2 3-201.

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

4 (b) "Assault" means the crimes of assault, battery, and assault and battery,
5 which retain their judicially determined meanings.6 (c) (1) "Law enforcement officer" has the meaning stated in § 3-101(e)(1) of
7 the Public Safety Article without application of § 3-101(e)(2).8 (2) "LAW ENFORCEMENT OFFICER" INCLUDES AN EMPLOYEE OF THE
9 DIVISION OF CORRECTION.

10 (d) "Serious physical injury" means physical injury that:

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

12 (2) causes permanent or protracted serious:

13 (i) disfigurement;

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

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

16 3-203.

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

18 (b) Except as provided in subsection (c) of this section, a person who violates
19 subsection (a) of this section is guilty of the misdemeanor of assault in the second
20 degree and on conviction is subject to imprisonment not exceeding 10 years or a fine
21 not exceeding \$2,500 or both.22 (c) (1) In this subsection, "physical injury" means any impairment of
23 physical condition, excluding minor injuries.24 (2) A person may not intentionally cause physical injury to another OR
25 ASSAULT ANOTHER BY USE OF BODILY FLUIDS if the person knows or has reason to
26 know that the other is a law enforcement officer engaged in the performance of the
27 officer's official duties.28 (3) A person who violates paragraph (2) of this subsection is guilty of the
29 felony of assault in the second degree and on conviction is subject to imprisonment not
30 exceeding 10 years or a fine not exceeding \$5,000 or both.

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Article - Public Safety

2 3-101.

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

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

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

6 1. the Department of State Police;

7 2. the Police Department of Baltimore City;

8 3. the Baltimore City School Police Force;

9 4. the Baltimore City Watershed Police Force;

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

11 6. the police department, bureau, or force of a municipal

12 corporation;

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

14 8. the police department, bureau, or force of a bicounty

15 agency;

16 9. the Maryland Transportation Authority Police;

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

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

19 12. the Field Enforcement Bureau of the Comptroller's Office;

20 13. the Housing Authority of Baltimore City Police Force;

21 14. the Crofton Police Department;

22 15. the police force of the Department of Health and Mental

23 Hygiene;

24 16. the police force of the Department of General Services;

25 17. the police force of the Department of Labor, Licensing, and

26 Regulation;

27 18. the police forces of the University System of Maryland;

28 19. the police force of Morgan State University;

1 20. the office of State Fire Marshal; or

2 21. the Ocean Pines Police Department.

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

4 (i) an individual who serves at the pleasure of the Police
5 Commissioner of Baltimore City;

6 (ii) an individual who serves at the pleasure of the appointing
7 authority of a charter county;

8 (iii) the police chief of a municipal corporation;

9 (iv) an officer who is in probationary status on initial entry into the
10 law enforcement agency except if an allegation of brutality in the execution of the
11 officer's duties is made;

12 (v) a Montgomery County fire and explosive investigator as defined
13 in § 2-208.1 of the Criminal Procedure Article; or

14 (vi) an Anne Arundel County or City of Annapolis fire and explosive
15 investigator as defined in § 2-208.2 of the Criminal Procedure Article.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 2006.