

# HOUSE BILL 631

E1

(9lr1460)

## ENROLLED BILL

—Judiciary/Judicial Proceedings—

Introduced by **Delegates Levi, Barkley, Davis, DeBoy, Kramer, Manno, Schuler, and Stukes**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~**Criminal Law – Assault on Transportation – Interfering with Transit**~~  
3 ~~**Operators and School Employees Bus Drivers – Enhanced Penalties**~~

4 FOR the purpose of prohibiting a person from ~~intentionally causing or attempting to~~  
5 ~~cause serious physical injury to a person operating a transit vehicle or to a~~  
6 ~~school employee working in a public school; prohibiting a person from causing~~  
7 ~~physical injury to another if the person knows or has reason to know that the~~  
8 ~~person is operating a transit vehicle or is a school employee; providing certain~~  
9 ~~penalties for violations of this Act; providing that a sentence shall only be~~  
10 ~~imposed under this Act if there has been a certain increase in a certain offense~~  
11 ~~under this Act; providing a method to track offense statistics for the purposes of~~  
12 ~~imposing a penalty under this Act; requiring a penalty imposed under this Act~~  
13 ~~to be in addition to any sentence imposed for a certain violation; prohibiting a~~  
14 ~~court from suspending any part of the mandatory minimum sentence provided~~

### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber / conference committee amendments.



~~in this Act; providing that a person is not eligible for parole during the mandatory minimum sentence imposed by this Act; defining certain terms; and generally relating to assault on obstructing, hindering, or interfering with, or otherwise disrupting or disturbing with school bus drivers or certain transit station agents, conductors, or station attendants while engaged in the performance of certain official duties; providing certain penalties for a violation of this Act; increasing a certain penalty for obstructing, hindering, or interfering with, or otherwise disrupting or disturbing with the operation or operator of a transit vehicle; defining a certain term; and generally relating to prohibitions against interfering with a transit operator or school employee bus driver.~~

BY adding to

Article – Education

Section 26-104

Annotated Code of Maryland

(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

~~Article – Criminal Law~~ Transportation

~~Section 3-201, 3-202, and 3-203~~ 7-705

~~Annotated Code of Maryland~~

~~(2002 Volume and 2008 Supplement)~~ (2008 Replacement Volume)

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

~~Article – Criminal Law~~

~~3-201.~~

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

~~(b) “Assault” means the crimes of assault, battery, and assault and battery, which retain their judicially determined meanings.~~

~~(e) (1) “Law enforcement officer” has the meaning stated in § 3-101(e)(1) of the Public Safety Article without application of § 3-101(e)(2).~~

~~(2) “Law enforcement officer” includes:~~

~~(i) a correctional officer at a correctional facility; and~~

~~(ii) an officer employed by the WMATA Metro Transit Police, subject to the jurisdictional limitations under Article XVI, § 76 of the Washington Metropolitan Area Transit Authority Compact, which is codified in § 10-204 of the Transportation Article.~~

(d) ~~“Serious physical injury” means physical injury that:~~

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

~~(2) causes permanent or protracted serious:~~

~~(i) disfigurement;~~

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

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

~~(E) “SCHOOL EMPLOYEE” MEANS AN EMPLOYEE OF A PUBLIC SCHOOL,  
AS DEFINED IN § 1-101 OF THE EDUCATION ARTICLE.~~

~~(F) “TRANSIT VEHICLE” HAS THE MEANING STATED IN § 7-101 OF THE  
TRANSPORTATION ARTICLE.~~

~~§ 202.~~

~~(a) (1) A person may not intentionally cause or attempt to cause serious  
physical injury to another.~~

~~(2) A person may not commit an assault with a firearm, including:~~

~~(i) a handgun, antique firearm, rifle, shotgun, short barreled  
shotgun, or short barreled rifle, as those terms are defined in § 4-201 of this article;~~

~~(ii) an assault pistol, as defined in § 4-301 of this article;~~

~~(iii) a machine gun, as defined in § 4-401 of this article; and~~

~~(iv) a regulated firearm, as defined in § 5-101 of the Public  
Safety Article.~~

~~(3) A PERSON MAY NOT COMMIT A VIOLATION OF PARAGRAPH (1)  
OR (2) OF THIS SUBSECTION INVOLVING A VICTIM WHO:~~

~~(I) IS OPERATING A TRANSIT VEHICLE AT THE TIME OF THE  
VIOLATION; OR~~

~~(II) IS A SCHOOL EMPLOYEE, WORKING IN A PUBLIC SCHOOL  
AT THE TIME OF THE VIOLATION.~~

~~(b) [A] SUBJECT TO SUBSECTION (C) OF THIS SECTION, A person who violates this section is guilty of the felony of assault in the first degree and on conviction is subject to imprisonment not exceeding 25 years.~~

~~(c) (1) (i) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON WHO IS CONVICTED OF A VIOLATION UNDER SUBSECTION (A)(3) OF THIS SECTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 2 YEARS AND NOT EXCEEDING 4 YEARS AND IS SUBJECT TO A FINE NOT EXCEEDING \$2,500.~~

~~(ii) 1. A SENTENCE MAY ONLY BE IMPOSED UNDER THIS PARAGRAPH IF THERE HAS BEEN AN INCREASE IN THE STATE OVER THE PREVIOUS 2 YEARS IN THE NUMBER OF VIOLATIONS OF SUBSECTION (A)(3) OF THIS SECTION AGAINST PERSONS IN THE CATEGORY OF WHICH THE VICTIM IS A MEMBER.~~

~~2. THE NUMBER OF ASSAULTS SHALL BE TRACKED USING:~~

~~A. FOR TRANSIT OPERATORS, THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE ASSAULT STATISTICS AND THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY "FIVE YEAR CRIME REPORT"; AND~~

~~B. FOR SCHOOL EMPLOYEES, THE MARYLAND STATE DEPARTMENT OF EDUCATION "SUSPENSIONS: MARYLAND PUBLIC SCHOOLS" STATISTICS ON SUSPENSIONS FOR A PHYSICAL ATTACK BY STUDENTS ON TEACHER/STAFF.~~

~~(2) A SENTENCE IMPOSED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY SENTENCE IMPOSED UNDER SUBSECTION (B) OF THIS SECTION.~~

~~(3) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

~~(4) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 2 YEARS.~~

~~(5) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE, A PERSON SENTENCED UNDER PARAGRAPH (1) OF THIS SUBSECTION IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 2 YEARS.~~

~~3-203.~~

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

~~(b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both.~~

~~(c) (1) In this subsection, "physical injury" means any impairment of physical condition, excluding minor injuries.~~

~~(2) A person may not intentionally cause physical injury to another if:~~

~~(I) the person knows or has reason to know that the other is a law enforcement officer engaged in the performance of the officer's official duties;~~

~~(II) THE OTHER IS OPERATING A TRANSIT VEHICLE; OR~~

~~(III) THE OTHER IS A SCHOOL EMPLOYEE, WORKING IN A PUBLIC SCHOOL AT THE TIME OF THE VIOLATION.~~

~~(3) [A] SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.~~

~~(4) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (2)(II) OR (III) OF THIS SUBSECTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS THAN 1 YEAR AND NOT EXCEEDING 3 YEARS AND IS SUBJECT TO A FINE NOT EXCEEDING \$2,500.~~

~~(II) 1. A SENTENCE MAY ONLY BE IMPOSED UNDER THIS PARAGRAPH IF THERE HAS BEEN AN INCREASE IN THE STATE OVER THE PREVIOUS 2 YEARS IN THE NUMBER OF VIOLATIONS OF PARAGRAPH (2)(II) OR (III) OF THIS SUBSECTION AGAINST PERSONS IN THE CATEGORY OF WHICH THE VICTIM IS A MEMBER.~~

~~2. THE NUMBER OF ASSAULTS SHALL BE TRACKED USING:~~

~~A. FOR TRANSIT OPERATORS, THE MARYLAND TRANSIT ADMINISTRATION POLICE FORCE ASSAULT STATISTICS AND THE~~

~~WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY "FIVE YEAR CRIME REPORT"; AND~~

~~B. FOR SCHOOL EMPLOYEES, THE MARYLAND STATE DEPARTMENT OF EDUCATION "SUSPENSIONS: MARYLAND PUBLIC SCHOOLS" STATISTICS ON SUSPENSIONS FOR A PHYSICAL ATTACK BY STUDENTS ON TEACHER/STAFF.~~

~~(HH) A SENTENCE IMPOSED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL BE CONSECUTIVE TO AND NOT CONCURRENT WITH ANY SENTENCE IMPOSED UNDER SUBSECTION (C)(3) OF THIS SECTION.~~

~~(IV) NOTWITHSTANDING § 14-102 OF THIS ARTICLE, THE COURT MAY NOT IMPOSE LESS THAN THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.~~

~~(V) THE COURT MAY NOT SUSPEND ANY PART OF THE MANDATORY MINIMUM SENTENCE OF 1 YEAR.~~

~~(VI) EXCEPT AS PROVIDED IN § 4-305 OF THE CORRECTIONAL SERVICES ARTICLE, A PERSON SENTENCED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IS NOT ELIGIBLE FOR PAROLE IN LESS THAN 1 YEAR.~~

#### Article – Education

#### 26-104.

(A) IN THIS SECTION, "SCHOOL BUS DRIVER" MEANS THE DRIVER OF A SCHOOL VEHICLE AS DEFINED IN § 11-154 OF THE TRANSPORTATION ARTICLE WHILE EMPLOYED BY OR UNDER CONTRACT WITH A LOCAL SCHOOL SYSTEM.

(B) A PERSON MAY NOT OBSTRUCT, HINDER, OR INTERFERE WITH, OR OTHERWISE DISRUPT OR DISTURB WITH A SCHOOL BUS DRIVER WHILE THE SCHOOL BUS DRIVER IS ENGAGED IN THE PERFORMANCE OF THE SCHOOL BUS DRIVER'S OFFICIAL DUTIES.

(C) ANY PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000, IMPRISONMENT NOT EXCEEDING 18 MONTHS 90 DAYS, OR BOTH.

#### Article – Transportation

1 7-705.

2 (a) It is unlawful for any person entering a transit facility or transit vehicle  
3 owned or controlled by the Administration for the purpose of obtaining transit service  
4 or a train owned or controlled by the Administration or operated by a railroad  
5 company under contract to the Administration to provide passenger railroad service  
6 to:

7 (1) Fail to pay the applicable fare charged by the Administration in  
8 the required manner; or

9 (2) Fail to:

10 (i) Pay the applicable fare;

11 (ii) Exhibit proof of payment; or

12 (iii) Provide truthful identification.

13 (b) It is unlawful for any person to engage in any of the following acts in any  
14 transit vehicle or transit facility, designed for the boarding of a transit vehicle, which  
15 is owned or controlled by the Administration or a train owned or controlled by the  
16 Administration or operated by a railroad company under contract to the  
17 Administration to provide passenger railroad service:

18 (1) Expectorate;

19 (2) Smoke or carry a lighted or smoldering pipe, cigar, or cigarette;

20 (3) Consume food or drink, or carry any open food or beverage  
21 container;

22 (4) Discard litter, except into receptacles designated for that purpose;

23 (5) Play or operate any radio, cassette, cartridge, tape player, or  
24 similar electronic device or musical instruments, unless such device is connected to an  
25 earphone that limits the sound to the hearing of the individual user;

26 (6) Carry or possess any explosives, acids, concealed weapons or other  
27 dangerous articles;

28 (7) Carry or possess any live animals, except seeing-eye animals and  
29 hearing-ear animals properly harnessed and accompanied by a blind person or a deaf  
30 person, and small animals properly packaged;

31 (8) [Obstruct, hinder, interfere with, or otherwise disrupt or disturb  
32 the operation or operator of a transit vehicle or railroad passenger car;

(9)] Board any transit vehicle through the rear exit door, unless so directed by an employee or agent of the Maryland Transit Administration;

[(10)] (9) Urinate or defecate, except in restrooms;

[(11)] (10) Fail to move to the rear of any transit vehicle when requested to do so by the operator or a police officer;

[(12)] (11) Fail to vacate a seat designated for the elderly or handicapped when requested to do so by the transit vehicle operator, train conductor, or a police officer; or

[(13)] (12) Except by contract with the Administration, solicit the purchase of any goods or services.

(c) As used in this section, "elderly and handicapped person" means any person who, by reason of illness, injury, age, congenital malfunction, or other permanent or temporary incapacity or disability, is unable to use transit facilities and transit services or railroad facilities and railroad services as effectively as a person who is not so affected.

(d) The provisions of subsection (b)(3), (5), [(9)] (8), and [(13)] (12) of this section do not apply to charter bus service rendered by the Administration. The provisions of subsection (b)(2) and [(13)] (12) of this section do not apply to excursion train service rendered by the Administration or by a railroad company under contract to the Administration. The provisions of subsection (b)(3) of this section do not apply to any railroad service rendered by the Administration or by a railroad company under contract to the Administration.

(e) [Any] EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, ANY person who violates any provision of this section is guilty of a misdemeanor and is subject to a fine of not more than \$500 for each offense.

(F) (1) IT IS UNLAWFUL FOR ANY PERSON TO OBSTRUCT, HINDER, OR INTERFERE WITH, ~~OR OTHERWISE DISRUPT OR DISTURB:~~

(I) THE OPERATION OR OPERATOR OF A TRANSIT VEHICLE OR RAILROAD PASSENGER CAR; OR

(II) A PERSON ENGAGED IN OFFICIAL DUTIES AS A STATION AGENT, CONDUCTOR, OR STATION ATTENDANT WHO IS EMPLOYED BY:

1. THE ADMINISTRATION;



1                                   **2. AN ENTITY THAT PROVIDES TRANSIT SERVICE**  
2 **UNDER CONTRACT WITH THE ADMINISTRATION;**

3                                   **3. A LOCAL GOVERNMENT AGENCY OR PUBLIC**  
4 **TRANSIT AUTHORITY;**

5                                   **4. A PRIVATE ENTITY THAT PROVIDES PUBLIC**  
6 **TRANSIT SERVICE; OR**

7                                   **5. AN ENTITY THAT PROVIDES TRANSIT SERVICE**  
8 **UNDER A TRANSPORTATION COMPACT UNDER TITLE 10 OF THIS ARTICLE.**

9                                   **(2) ANY PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
10 **MISDEMEANOR AND IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000,**  
11 **IMPRISONMENT NOT EXCEEDING ~~18 MONTHS~~ 90 DAYS, OR BOTH, FOR EACH**  
12 **OFFENSE.**

13                                   **[(f)] (G) This section does not prohibit enforcement of any other State or**  
14 **local law or regulation that is consistent with the provisions of this section.**

15                                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 October 1, 2009.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.