

# HOUSE BILL 631

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By: **Delegates Levi, Barkley, Davis, DeBoy, Kramer, Manno, Schuler, and Stukes**

Introduced and read first time: February 6, 2009

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Assault on Transit Operators and School Employees –**  
3 **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  
15 in this Act; providing that a person is not eligible for parole during the  
16 mandatory minimum sentence imposed by this Act; defining certain terms; and  
17 generally relating to assault on a transit operator or school employee.

18 BY repealing and reenacting, with amendments,  
19 Article – Criminal Law  
20 Section 3–201, 3–202, and 3–203  
21 Annotated Code of Maryland  
22 (2002 Volume and 2008 Supplement)

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

25 **Article – Criminal Law**

26 3–201.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(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.

(c) (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.**

3–202.

(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.**

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

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

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

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

12 3-203.

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

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

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

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

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

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

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

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

30           (4) (I) **SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH,**  
31 **A PERSON WHO IS CONVICTED OF A VIOLATION OF PARAGRAPH (2)(II) OR (III)**  
32 **OF THIS SUBSECTION SHALL BE SENTENCED TO IMPRISONMENT FOR NOT LESS**

1 THAN 1 YEAR AND NOT EXCEEDING 3 YEARS AND IS SUBJECT TO A FINE NOT  
2 EXCEEDING \$2,500.

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

8 2. THE NUMBER OF ASSAULTS SHALL BE TRACKED  
9 USING:

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

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

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

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

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

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

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