

HOUSE BILL 1393

E2

9lr3166

By: **Delegates Mathias and Conway**

Introduced and read first time: February 25, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Warrantless Arrest – Second Degree Assault**

3 FOR the purpose of authorizing a police officer to arrest a person without a warrant if
4 the police officer has probable cause to believe that the person has committed a
5 second degree assault under certain circumstances; requiring a police officer to
6 consider whether a person acted in self–defense under certain circumstances;
7 and generally relating to warrantless arrests for second degree assault.

8 BY repealing and reenacting, with amendments,
9 Article – Criminal Procedure
10 Section 2–203
11 Annotated Code of Maryland
12 (2008 Replacement Volume)

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

15 **Article – Criminal Procedure**

16 2–203.

17 (a) A police officer without a warrant may arrest a person if the police officer
18 has probable cause to believe:

19 (1) that the person has committed a crime listed in subsection (b) of
20 this section; and

21 (2) that unless the person is arrested immediately, the person:

22 (i) may not be apprehended;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) may cause physical injury or property damage to another; or

2 (iii) may tamper with, dispose of, or destroy evidence.

3 (b) The crimes referred to in subsection (a)(1) of this section are:

4 (1) manslaughter by vehicle or vessel under § 2–209 of the Criminal
5 Law Article;

6 (2) malicious burning under § 6–104 or § 6–105 of the Criminal Law
7 Article or an attempt to commit the crime;

8 (3) malicious mischief under § 6–301 of the Criminal Law Article or an
9 attempt to commit the crime;

10 (4) a theft crime where the value of the property or services stolen is
11 less than \$500 under § 7–104 or § 7–105 of the Criminal Law Article or an attempt to
12 commit the crime;

13 (5) the crime of giving or causing to be given a false alarm of fire
14 under § 9–604 of the Criminal Law Article;

15 (6) indecent exposure under § 11–107 of the Criminal Law Article;

16 (7) a crime that relates to controlled dangerous substances under Title
17 5 of the Criminal Law Article or an attempt to commit the crime;

18 (8) the wearing, carrying, or transporting of a handgun under § 4–203
19 or § 4–204 of the Criminal Law Article;

20 (9) carrying or wearing a concealed weapon under § 4–101 of the
21 Criminal Law Article; [and]

22 (10) prostitution and related crimes under Title 11, Subtitle 3 of the
23 Criminal Law Article; **AND**

24 **(11) SECOND DEGREE ASSAULT UNDER § 3–203 OF THE CRIMINAL**
25 **LAW ARTICLE IF:**

26 **(I) THERE IS EVIDENCE OF PHYSICAL INJURY, AS DEFINED**
27 **IN § 3–203(C)(1) OF THE CRIMINAL LAW ARTICLE; AND**

28 **(II) A REPORT TO THE POLICE WAS MADE WITHIN 48 HOURS**
29 **OF THE ALLEGED INCIDENT.**

1 **(C) IF A POLICE OFFICER MAKING AN ARREST FOR A CRIME DESCRIBED**
2 **IN SUBSECTION (B)(11) OF THIS SECTION HAS PROBABLE CAUSE TO BELIEVE**
3 **THAT MUTUAL BATTERY OCCURRED AND THAT ARREST IS NECESSARY UNDER**
4 **SUBSECTION (A) OF THIS SECTION, THE POLICE OFFICER SHALL CONSIDER**
5 **WHETHER ONE OF THE PERSONS ACTED IN SELF-DEFENSE WHEN DETERMINING**
6 **WHETHER TO ARREST THE PERSON WHOM THE POLICE OFFICER BELIEVES TO**
7 **BE THE PRIMARY AGGRESSOR.**

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