

# HOUSE BILL 488

E1

8lr1581

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By: **Delegates Dumais, Vallario, and Rey**  
Introduced and read first time: January 25, 2018  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Third-Degree Assault**

3 FOR the purpose of establishing that it is a misdemeanor to intentionally cause offensive  
4 contact, engage in conduct tending to put another in fear of offensive contact, or  
5 attempt to cause offensive contact; providing for the form of certain charging  
6 documents; providing that a certain crime is not a lesser included crime of certain  
7 other crimes under certain circumstances; providing that a person charged with a  
8 certain crime may assert any judicially recognized defense, with a certain exception;  
9 providing that physical injury of a certain victim is not a defense to a certain charge;  
10 altering a certain definition of “crime of violence” to include assault in the second  
11 degree; establishing that the District Court has exclusive original jurisdiction in a  
12 criminal case in which a certain person is charged with a certain crime; providing  
13 that the circuit court has jurisdiction to try a case charging a violation of a certain  
14 statute under certain circumstances; altering a certain list of convictions that are  
15 eligible for expungement under certain circumstances; establishing certain  
16 penalties; defining a certain term; making a conforming change; and generally  
17 relating to assault.

18 BY adding to  
19 Article – Criminal Law  
20 Section 3–203.1  
21 Annotated Code of Maryland  
22 (2012 Replacement Volume and 2017 Supplement)

23 BY repealing and reenacting, with amendments,  
24 Article – Criminal Law  
25 Section 3–206, 3–209, and 14–101(a)  
26 Annotated Code of Maryland  
27 (2012 Replacement Volume and 2017 Supplement)

28 BY repealing and reenacting, with amendments,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1 Article – Courts and Judicial Proceedings  
2 Section 4–301(b) and 4–302(d)  
3 Annotated Code of Maryland  
4 (2013 Replacement Volume and 2017 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article – Criminal Procedure  
7 Section 10–110(a) and (c)  
8 Annotated Code of Maryland  
9 (2008 Replacement Volume and 2017 Supplement)

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

12 **Article – Criminal Law**

13 **3–203.1.**

14 (A) (1) IN THIS SECTION, “OFFENSIVE CONTACT” MEANS  
15 NONCONSENSUAL PHYSICAL CONTACT THAT A REASONABLE PERSON WOULD FIND  
16 TO BE OFFENSIVE.

17 (2) “OFFENSIVE CONTACT” DOES NOT INCLUDE:

18 (I) CONTACT THAT RESULTS IN PHYSICAL INJURY;

19 (II) CONTACT THAT CAUSES A RISK OF SERIOUS PHYSICAL  
20 INJURY;

21 (III) A DOMESTICALLY RELATED CRIME, AS DEFINED IN § 6–233  
22 OF THE CRIMINAL PROCEDURE ARTICLE; OR

23 (IV) A SEXUAL CRIME UNDER SUBTITLE 3 OF THIS TITLE.

24 (B) A PERSON MAY NOT:

25 (1) INTENTIONALLY CAUSE OFFENSIVE CONTACT;

26 (2) ENGAGE IN CONDUCT INTENDING TO PUT ANOTHER IN FEAR OF  
27 OFFENSIVE CONTACT; OR

28 (3) ATTEMPT TO CAUSE OFFENSIVE CONTACT.

29 (C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE  
30 MISDEMEANOR OF ASSAULT IN THE THIRD DEGREE AND ON CONVICTION IS SUBJECT

1 TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR  
2 BOTH.

3 3–206.

4 (a) An indictment, information, other charging document, or warrant for a crime  
5 described in § 3–202, § 3–203, or § 3–205 of this subtitle is sufficient if it substantially  
6 states:

7 “(name of defendant) on (date) in (county) assaulted (name of victim) in the.....  
8 degree or (describe other violation) in violation of (section violated) against the peace,  
9 government, and dignity of the State.”.

10 (b) If the general form of indictment or information described in subsection (a) of  
11 this section is used to charge a crime described in § 3–202, § 3–203, or § 3–205 of this  
12 subtitle in a case in the circuit court, the defendant, on timely demand, is entitled to a bill  
13 of particulars.

14 (c) A charge of assault in the first degree also charges a defendant with assault  
15 in the second degree.

16 **(D) (1) UNLESS SPECIFICALLY CHARGED BY THE STATE, ASSAULT IN THE**  
17 **THIRD DEGREE UNDER § 3–203.1 OF THIS SUBTITLE IS NOT A LESSER INCLUDED**  
18 **CRIME OF ANY OTHER CRIME.**

19 **(2) A CHARGING DOCUMENT OR WARRANT FOR A CRIME DESCRIBED**  
20 **IN § 3–203.1 OF THIS SUBTITLE IS SUFFICIENT IF IT SUBSTANTIALLY STATES:**

21 **“(NAME OF DEFENDANT) ON (DATE) IN (COUNTY) COMMITTED ASSAULT IN THE**  
22 **THIRD DEGREE AGAINST (NAME OF VICTIM) IN VIOLATION OF § 3–203.1 OF THE**  
23 **CRIMINAL LAW ARTICLE AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE**  
24 **STATE.”.**

25 **[(d)] (E) (1)** To be found guilty of reckless endangerment under § 3–204 of  
26 this subtitle, a defendant must be charged specifically with reckless endangerment.

27 (2) A charging document for reckless endangerment under § 3–204 of this  
28 subtitle is sufficient if it substantially states:

29 “(name of defendant) on (date) in (county) committed reckless endangerment in  
30 violation of § 3–204 of the Criminal Law Article against the peace, government, and dignity  
31 of the State.”.

32 (3) If more than one individual is endangered by the conduct of the  
33 defendant, a separate charge may be brought for each individual endangered.

1 (4) A charging document containing a charge of reckless endangerment  
2 under § 3–204 of this subtitle may:

3 (i) include a count for each individual endangered by the conduct of  
4 the defendant; or

5 (ii) contain a single count based on the conduct of the defendant,  
6 regardless of the number of individuals endangered by the conduct of the defendant.

7 (5) If the general form of charging document described in paragraph (2) of  
8 this subsection is used to charge reckless endangerment under § 3–204 of this subtitle in a  
9 case in the circuit court, the defendant, on timely demand, is entitled to a bill of particulars.

10 3–209.

11 (A) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A person  
12 charged with a crime under § 3–202, § 3–203, § 3–203.1, § 3–204, or § 3–205 of this subtitle  
13 may assert any judicially recognized defense.

14 (B) A PHYSICAL INJURY OF A VICTIM RESULTING FROM A VIOLATION OF §  
15 3–203.1 OF THIS SUBTITLE IS NOT A DEFENSE TO A CHARGE UNDER § 3–203.1 OF  
16 THIS SUBTITLE.

17 14–101.

18 (a) In this section, “crime of violence” means:

19 (1) abduction;

20 (2) arson in the first degree;

21 (3) kidnapping;

22 (4) manslaughter, except involuntary manslaughter;

23 (5) mayhem;

24 (6) maiming, as previously proscribed under former Article 27, §§ 385 and  
25 386 of the Code;

26 (7) murder;

27 (8) rape;

28 (9) robbery under § 3–402 or § 3–403 of this article;

29 (10) carjacking;

- 1 (11) armed carjacking;
- 2 (12) sexual offense in the first degree;
- 3 (13) sexual offense in the second degree;
- 4 (14) use of a handgun in the commission of a felony or other crime of  
5 violence;
- 6 (15) child abuse in the first degree under § 3–601 of this article;
- 7 (16) sexual abuse of a minor under § 3–602 of this article if:
- 8 (i) the victim is under the age of 13 years and the offender is an  
9 adult at the time of the offense; and
- 10 (ii) the offense involved:
- 11 1. vaginal intercourse, as defined in § 3–301 of this article;
- 12 2. a sexual act, as defined in § 3–301 of this article;
- 13 3. an act in which a part of the offender’s body penetrates,  
14 however slightly, into the victim’s genital opening or anus; or
- 15 4. the intentional touching, not through the clothing, of the  
16 victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,  
17 gratification, or abuse;
- 18 (17) home invasion under § 6–202(b) of this article;
- 19 (18) an attempt to commit any of the crimes described in items (1) through  
20 (17) of this subsection;
- 21 (19) continuing course of conduct with a child under § 3–315 of this article;
- 22 (20) assault in the first degree;
- 23 (21) **ASSAULT IN THE SECOND DEGREE;**
- 24 **(22)** assault with intent to murder;
- 25 **[(22)] (23)** assault with intent to rape;
- 26 **[(23)] (24)** assault with intent to rob;

1                    [(24)] **(25)** assault with intent to commit a sexual offense in the first degree;  
2 and

3                    [(25)] **(26)** assault with intent to commit a sexual offense in the second  
4 degree.

### 5                    **Article – Courts and Judicial Proceedings**

6 4–301.

7            (b) Except as provided in § 4–302 of this subtitle, the District Court also has  
8 exclusive original jurisdiction in a criminal case in which a person at least 18 years old or  
9 a corporation is charged with:

10                    (1) Commission of a common-law or statutory misdemeanor regardless of  
11 the amount of money or value of the property involved;

12                    (2) Violation of § 7–104, § 7–105, § 7–107, or § 7–108 of the Criminal Law  
13 Article, whether a felony or a misdemeanor;

14                    (3) Violation of a county, municipal, or other ordinance, if the violation is  
15 not a felony;

16                    (4) Criminal violation of a State, county, or municipal rule or regulation, if  
17 the violation is not a felony;

18                    (5) Doing or omitting to do any act made punishable by a fine,  
19 imprisonment, or other penalty as provided by the particular law, ordinance, rule, or  
20 regulation defining the violation if the violation is not a felony;

21                    (6) Violation of § 8–103 of the Criminal Law Article, whether a felony or a  
22 misdemeanor;

23                    (7) Violation of §§ 8–203 through 8–209 of the Criminal Law Article,  
24 whether a felony or misdemeanor;

25                    (8) Forgery or violation of Title 8, Subtitle 6 of the Criminal Law Article,  
26 whether a felony or misdemeanor;

27                    (9) Violation of Title 27, Subtitle 4 of the Insurance Article, whether a  
28 felony or a misdemeanor;

29                    (10) Violation of § 9–1106 of the Labor and Employment Article;

30                    (11) Violation of § 8–301 of the Criminal Law Article, whether a felony or  
31 misdemeanor;

- 1 (12) Violation of § 2–209 of the Criminal Law Article;
- 2 (13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;
- 3 (14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;
- 4 (15) Violation of §§ 10–604 through 10–608 of the Criminal Law Article,  
5 whether a felony or misdemeanor;
- 6 (16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article,  
7 whether a felony or misdemeanor;
- 8 (17) Violation of § 20–102 of the Transportation Article, whether a felony or  
9 misdemeanor;
- 10 (18) Violation of § 8–801 of the Criminal Law Article;
- 11 (19) Violation of § 8–604 of the Criminal Law Article;
- 12 (20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;
- 13 (21) Violation of §§ 16–801 through 16–804 of the Election Law Article;
- 14 (22) Violation of § 3–203(c) of the Criminal Law Article;
- 15 (23) Violation of § 11–208 of the Criminal Law Article as a second or  
16 subsequent offense;
- 17 (24) Violation of § 11–721 of the Criminal Procedure Article as a second or  
18 subsequent offense; [or]
- 19 (25) Violation of § 11–303(b) of the Criminal Law Article; **OR**
- 20 **(26) VIOLATION OF § 3–203.1 OF THE CRIMINAL LAW ARTICLE.**

21 4–302.

22 (d) (1) Except as provided in paragraph (2) of this subsection, the jurisdiction  
23 of the District Court is concurrent with that of the circuit court in a criminal case:

24 (i) In which the penalty may be confinement for 3 years or more or  
25 a fine of \$2,500 or more; or

26 (ii) That is a felony, as provided in § 4–301(b)(2), (6), (7), (8), (9), (10),  
27 (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), and (25) of this  
28 subtitle.

1           (2)   (i)    Except as provided in subparagraph (ii) of this paragraph, a  
2 circuit court does not have jurisdiction to try a case charging a violation of **§ 3-203.1**, §  
3 5-601, or § 5-620 of the Criminal Law Article.

4           (ii)   A circuit court does have jurisdiction to try a case charging a  
5 violation of **§ 3-203.1**, § 5-601, or § 5-620 of the Criminal Law Article if the defendant:

6                   1.    Properly demands a jury trial;

7                   2.    Appeals as provided by law from a final judgment entered  
8 in the District Court; or

9                   3.    Is charged with another offense arising out of the same  
10 circumstances that is within a circuit court's jurisdiction.

### 11                                   **Article – Criminal Procedure**

12 10-110.

13           (a)    A person may file a petition listing relevant facts for expungement of a police  
14 record, court record, or other record maintained by the State or a political subdivision of  
15 the State if the person is convicted of a misdemeanor that is a violation of:

16                   (1)    § 6-320 of the Alcoholic Beverages Article;

17                   (2)    an offense listed in § 17-613(a) of the Business Occupations and  
18 Professions Article;

19                   (3)    § 5-712, § 19-304, § 19-308, or Title 5, Subtitle 6 or Subtitle 9 of the  
20 Business Regulation Article;

21                   (4)    § 3-1508 or § 10-402 of the Courts Article;

22                   (5)    § 14-1915, § 14-2902, or § 14-2903 of the Commercial Law Article;

23                   (6)    § 5-211 of this article;

24                   (7)    [§ 3-203] **§ 3-203.1** or § 3-808 of the Criminal Law Article;

25                   (8)    § 5-601 not involving the use or possession of marijuana, § 5-618, §  
26 5-619, § 5-620, § 5-703, § 5-708, or § 5-902 of the Criminal Law Article;

27                   (9)    § 6-105, § 6-108, § 6-206, § 6-303, § 6-306, § 6-307, § 6-402, or §  
28 6-503 of the Criminal Law Article;

29                   (10)   § 7-104, § 7-203, § 7-205, § 7-304, § 7-308, or § 7-309 of the Criminal  
30 Law Article;

1 (11) § 8–103, § 8–206, § 8–401, § 8–402, § 8–404, § 8–406, § 8–408, § 8–503,  
2 § 8–521, § 8–523, or § 8–904 of the Criminal Law Article;

3 (12) § 9–204, § 9–205, § 9–503, or § 9–506 of the Criminal Law Article;

4 (13) § 10–110, § 10–201, § 10–402, § 10–404, or § 10–502 of the Criminal  
5 Law Article;

6 (14) § 11–306(a) of the Criminal Law Article;

7 (15) § 12–102, § 12–103, § 12–104, § 12–105, § 12–109, § 12–203, § 12–204,  
8 § 12–205, or § 12–302 of the Criminal Law Article;

9 (16) § 13–401, § 13–602, or § 16–201 of the Election Law Article;

10 (17) [§ 4–509 of the Family Law Article;

11 (18)] § 18–215 of the Health – General Article;

12 [(19)] **(18)** § 4–411 or § 4–2005 of the Human Services Article;

13 [(20)] **(19)** § 27–403, § 27–404, § 27–405, § 27–406, § 27–406.1, § 27–407, §  
14 27–407.1, or § 27–407.2 of the Insurance Article;

15 [(21)] **(20)** § 5–307, § 5–308, § 6–602, § 7–402, or § 14–114 of the Public  
16 Safety Article;

17 [(22)] **(21)** § 7–318.1, § 7–509, or § 10–507 of the Real Property Article;

18 [(23)] **(22)** § 9–124 of the State Government Article;

19 [(24)] **(23)** § 13–1001, § 13–1004, § 13–1007, or § 13–1024 of the  
20 Tax – General Article;

21 [(25)] **(24)** the common law offenses of affray, rioting, criminal contempt,  
22 battery, or hindering; or

23 [(26)] **(25)** an attempt, a conspiracy, or a solicitation of any offense listed in  
24 items (1) through [(25)]**(24)** of this subsection.

25 (c) (1) Except as provided in paragraph (2) of this subsection, a petition for  
26 expungement under this section may not be filed earlier than 10 years after the person  
27 satisfies the sentence or sentences imposed for all convictions for which expungement is  
28 requested, including parole, probation, or mandatory supervision.

1                   (2)     A petition for expungement for [a violation of § 3–203 of the Criminal  
2 Law Article,] common law battery[,] or for an offense classified as a domestically related  
3 crime under § 6–233 of this article may not be filed earlier than 15 years after the person  
4 satisfies the sentence or sentences imposed for all convictions for which expungement is  
5 requested, including parole, probation, or mandatory supervision.

6                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 October 1, 2018.