



Maryland Criminal Defense Attorneys' Association

February 26, 2025

Senate Bill 873
Criminal Law – Assault in the Third Degree
Sen. William C. Smith, Jr.
Senate Judicial Proceedings Committee
FAVORABLE

Current Maryland law provides a maximum penalty of 10 years in jail for even minor assaultive behavior including pushing, shoving, spitting or bumping into someone intentionally. It's time to have the option to charge such conduct where the penalty is significantly less than a decade in jail. A lower penalty encourages quick and fair resolution of cases through plea agreements, which avoids jury trials. This promotes expediency and judicial economy.

Example: A 30-year-old defendant with an intellectual disability threw a Styrofoam container at his peer support worker. The worker then filed charges against the defendant for assault in the 2nd degree. He had to secure an attorney. The case went on for many months and caused significant stress to the defendant because he was facing the possibility of up to 10 years in jail. The case was eventually dismissed.

For clients who are not competent to stand trial, including those who are already patients at mental hospitals, the high maximum penalty for 2nd degree assault means that they can be held for up to 3 years until their case is dismissed, even if the assaultive behavior is very minor.

Second Amendment Impact

Maryland has many residents and visitors who enjoy hunting throughout the state and could be significantly impacted if faced with a lifetime firearm ban. Under current Maryland law, second-degree assault is classified as a "crime of violence," meaning that even a minor incident can result in a lifetime firearm prohibition.

The creation of a third-degree assault statute in Maryland would be a significant step toward ensuring that firearm prohibitions are applied more fairly. The current law fails to differentiate between truly violent assaults and minor physical altercations, resulting in unnecessarily harsh consequences for gun owners. By establishing another misdemeanor assault with a maximum sentence of ninety days, the bill would prevent many Marylanders from being permanently disarmed for minor assaultive acts. At the same time, it would help ensure that federal firearm prohibitions are not automatically triggered for low-level conduct.

Noncitizens Impact

The creation of a third-degree assault statute in Maryland would prevent significant harm to noncitizens. The proposed legislation helps avoid the disproportionate impact on many legal immigrants from a second-degree assault conviction. Under federal immigration law, the classification of offenses as misdemeanors or felonies is primarily based on the maximum sentence rather than the state law designation. Noncitizens, including Deferred Action for Childhood Arrivals (DACA) and Temporary Protected Status (TPS) holders can lose their status completely from just one second-degree assault conviction. That's a harsh penalty for shoving someone.

The Maryland Criminal Defense Attorneys' Association urges a favorable report on SB 873.