

SENATE BILL 873

E1, E2
HB 488/18 – JUD

5lr3233

By: **Senator Smith**

Introduced and read first time: January 28, 2025

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 27, 2025

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Law~~ Workgroup to Study Adoption of a Statute for Assault in the
3 Third Degree

4 FOR the purpose of establishing ~~that it is a misdemeanor to intentionally cause offensive~~
5 ~~contact, engage in conduct intending to put another in fear of offensive contact, or~~
6 ~~attempt to cause offensive contact; providing that assault in the third degree is not~~
7 ~~a lesser included crime of any other crime, with a certain exception; providing that a~~
8 ~~person charged with assault in the third degree may assert any judicially recognized~~
9 ~~defense, with a certain exception; providing that physical injury of a certain victim~~
10 ~~is not a defense to a charge of assault in the third degree; establishing that the~~
11 ~~District Court has exclusive original jurisdiction in a criminal case in which a certain~~
12 ~~person is charged with assault in the third degree; providing that the circuit court~~
13 ~~has jurisdiction to try a case charging a violation of a certain statute under certain~~
14 ~~circumstances; repealing assault in the second degree and a violation of a protective~~
15 ~~order from and adding assault in the third degree to the list of convictions that are~~
16 ~~eligible for expungement under certain circumstances; and generally relating to~~
17 assault the Workgroup to Study Adoption of a Statute for Assault in the Third
18 Degree; and generally relating to the Workgroup to Study Adoption of a Statute for
19 Assault in the Third Degree.

20 ~~BY adding to~~
21 ~~Article — Criminal Law~~
22 ~~Section 3 — 203.1~~
23 ~~Annotated Code of Maryland~~
24 ~~(2021 Replacement Volume and 2024 Supplement)~~

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.



~~BY repealing and reenacting, with amendments,
 Article—Criminal Law
 Section 3-206 and 3-209
 Annotated Code of Maryland
 (2021 Replacement Volume and 2024 Supplement)~~

~~BY repealing and reenacting, with amendments,
 Article—Courts and Judicial Proceedings
 Section 4-301(b) and 4-302(d)
 Annotated Code of Maryland
 (2020 Replacement Volume and 2024 Supplement)~~

~~BY repealing and reenacting, with amendments,
 Article—Criminal Procedure
 Section 10-110(a) and (e)
 Annotated Code of Maryland
 (2018 Replacement Volume and 2024 Supplement)~~

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

~~Article—Criminal Law~~

~~3-203.1.~~

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

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

~~(I) CONTACT THAT RESULTS IN PHYSICAL INJURY;~~

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

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

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

~~(B) A PERSON MAY NOT:~~

~~(1) INTENTIONALLY CAUSE OFFENSIVE CONTACT;~~

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

3 ~~(3) ATTEMPT TO CAUSE OFFENSIVE CONTACT.~~

4 ~~(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE~~
5 ~~MISDEMEANOR OF ASSAULT IN THE THIRD DEGREE AND ON CONVICTION IS SUBJECT~~
6 ~~TO IMPRISONMENT NOT EXCEEDING 90 DAYS OR A FINE NOT EXCEEDING \$500 OR~~
7 ~~BOTH.~~

8 ~~§ 206.~~

9 ~~(a) An indictment, information, other charging document, or warrant for a crime~~
10 ~~described in § 3-202, § 3-203, or § 3-205 of this subtitle is sufficient if it substantially~~
11 ~~states:~~

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

15 ~~(b) If the general form of indictment or information described in subsection (a) of~~
16 ~~this section is used to charge a crime described in § 3-202, § 3-203, or § 3-205 of this~~
17 ~~subtitle in a case in the circuit court, the defendant, on timely demand, is entitled to a bill~~
18 ~~of particulars.~~

19 ~~(c) A charge of assault in the first degree also charges a defendant with assault~~
20 ~~in the second degree.~~

21 ~~(d) (1) UNLESS SPECIFICALLY CHARGED BY THE STATE, ASSAULT IN THE~~
22 ~~THIRD DEGREE UNDER § 3-203.1 OF THIS SUBTITLE IS NOT A LESSER INCLUDED~~
23 ~~CRIME OF ANY OTHER CRIME.~~

24 ~~(2) A CHARGING DOCUMENT OR WARRANT FOR A CRIME DESCRIBED~~
25 ~~IN § 3-203.1 OF THIS SUBTITLE IS SUFFICIENT IF IT SUBSTANTIALLY STATES:~~

26 ~~“(NAME OF DEFENDANT) ON (DATE) IN (COUNTY) COMMITTED ASSAULT IN THE~~
27 ~~THIRD DEGREE AGAINST (NAME OF VICTIM) IN VIOLATION OF § 3-203.1 OF THE~~
28 ~~CRIMINAL LAW ARTICLE AGAINST THE PEACE, GOVERNMENT, AND DIGNITY OF THE~~
29 ~~STATE.”.~~

30 ~~(E) (1) To be found guilty of reckless endangerment under § 3-204 of this~~
31 ~~subtitle, a defendant must be charged specifically with reckless endangerment.~~

1 ~~(2) A charging document for reckless endangerment under § 3-204 of this~~
2 ~~subtle is sufficient if it substantially states:~~

3 ~~“(name of defendant) on (date) in (county) committed reckless endangerment in~~
4 ~~violation of § 3-204 of the Criminal Law Article against the peace, government, and dignity~~
5 ~~of the State.”~~

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

8 ~~(4) A charging document containing a charge of reckless endangerment~~
9 ~~under § 3-204 of this subtitle may:~~

10 ~~(i) include a count for each individual endangered by the conduct of~~
11 ~~the defendant; or~~

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

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

17 ~~3-200.~~

18 ~~(a) Subject to [subsection (b)] SUBSECTIONS (B) AND (C) of this section, a person~~
19 ~~charged with a crime under § 3-202, § 3-203, § 3-203.1, § 3-204, or § 3-205 of this subtitle~~
20 ~~may assert any judicially recognized defense.~~

21 ~~(b) The discovery or perception of, or belief about, another person’s race, color,~~
22 ~~national origin, sex, gender identity, sexual orientation, religious beliefs, or disability,~~
23 ~~whether or not accurate, is not a defense to the crime of assault in any degree.~~

24 ~~(c) A PHYSICAL INJURY OF A VICTIM RESULTING FROM A VIOLATION OF §~~
25 ~~3-203.1 OF THIS SUBTITLE IS NOT A DEFENSE TO A CHARGE UNDER § 3-203.1 OF~~
26 ~~THIS SUBTITLE.~~

27 ~~Article—Courts and Judicial Proceedings~~

28 ~~4-301.~~

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

1 ~~(1) Commission of a common law or statutory misdemeanor regardless of~~
2 ~~the amount of money or value of the property involved;~~

3 ~~(2) Violation of § 7-104, § 7-105, § 7-107, or § 7-108 of the Criminal Law~~
4 ~~Article, whether a felony or a misdemeanor;~~

5 ~~(3) Violation of a county, municipal, or other ordinance, if the violation is~~
6 ~~not a felony;~~

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

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

12 ~~(6) Violation of § 8-103 of the Criminal Law Article, whether a felony or a~~
13 ~~misdemeanor;~~

14 ~~(7) Violation of § 8-203, § 8-204, § 8-205, § 8-206, § 8-207, § 8-208, or §~~
15 ~~8-209 of the Criminal Law Article, whether a felony or misdemeanor;~~

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

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

20 ~~(10) Violation of § 9-1106 of the Labor and Employment Article;~~

21 ~~(11) Violation of § 8-301 of the Criminal Law Article, whether a felony or~~
22 ~~misdemeanor;~~

23 ~~(12) Violation of § 2-209 of the Criminal Law Article;~~

24 ~~(13) Violation of Title 2, Subtitle 5 of the Criminal Law Article;~~

25 ~~(14) Violation of Title 11, Subtitle 5 of the Financial Institutions Article;~~

26 ~~(15) Violation of § 10-604, § 10-605, § 10-606, § 10-607, § 10-607.1, or §~~
27 ~~10-608 of the Criminal Law Article, whether a felony or misdemeanor;~~

28 ~~(16) Violation of Title 7, Subtitle 3, Part III of the Criminal Law Article,~~
29 ~~whether a felony or misdemeanor;~~

30 ~~(17) Violation of § 20-102 of the Transportation Article, whether a felony or~~
31 ~~misdemeanor;~~

1 ~~(18) Violation of § 8-801 of the Criminal Law Article;~~

2 ~~(19) Violation of § 8-604 of the Criminal Law Article;~~

3 ~~(20) Violation of Title 8, Subtitle 2, Part II of the Criminal Law Article;~~

4 ~~(21) Violation of § 16-801, § 16-802, § 16-803, or § 16-804 of the Election~~
5 ~~Law Article;~~

6 ~~(22) Violation of § 3-203(e) of the Criminal Law Article;~~

7 ~~(23) Violation of § 11-208 of the Criminal Law Article as a second or~~
8 ~~subsequent offense;~~

9 ~~(24) Violation of § 11-721 of the Criminal Procedure Article as a second or~~
10 ~~subsequent offense; [or]~~

11 ~~(25) Violation of § 3-1102(b) or § 3-1103 of the Criminal Law Article; OR~~

12 ~~(26) VIOLATION OF § 3-203.1 OF THE CRIMINAL LAW ARTICLE.~~

13 ~~4-302.~~

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

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

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

21 ~~(2) (i) Except as provided in subparagraph (ii) of this paragraph, a~~
22 ~~circuit court does not have jurisdiction to try a case charging a violation of § 3-203.1, §~~
23 ~~5-601, or § 5-620 of the Criminal Law Article.~~

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

26 ~~1. Properly demands a jury trial;~~

27 ~~2. Appeals as provided by law from a final judgment entered~~
28 ~~in the District Court; or~~

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

~~Article—Criminal Procedure~~

~~10-110.~~

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

~~(1) a misdemeanor that is a violation of:~~

~~(i) § 6-320 of the Alcoholic Beverages and Cannabis Article;~~

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

~~(iii) § 5-712, § 10-304, § 10-308, or Title 5, Subtitle 6 or Subtitle 9 of
the Business Regulation Article;~~

~~(iv) § 3-1508 or § 10-402 of the Courts Article;~~

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

~~(vi) § 5-211 of this article;~~

~~(vii) [§ 3-203] § 3-203.1 or § 3-808 of the Criminal Law Article;~~

~~(viii) § 5-601 not involving the use or possession of cannabis, §
5-602(b)(1), § 5-618, § 5-619, § 5-620, § 5-703, § 5-708, or § 5-902 of the Criminal Law
Article;~~

~~(ix) § 6-105, § 6-108, § 6-205 (fourth degree burglary), § 6-206, §
6-301, § 6-303, § 6-306, § 6-307, § 6-402, or § 6-503 of the Criminal Law Article;~~

~~(x) § 7-104, § 7-203, § 7-205, § 7-304, § 7-308, or § 7-309 of the
Criminal Law Article;~~

~~(xi) § 8-103, § 8-206, § 8-401, § 8-402, § 8-404, § 8-406, § 8-408, §
8-503, § 8-521, § 8-523, or § 8-904 of the Criminal Law Article;~~

~~(xii) § 9-204, § 9-205, § 9-503, or § 9-506 of the Criminal Law Article;~~

~~(xiii) § 10-110, § 10-201, § 10-402, § 10-404, or § 10-502 of the
Criminal Law Article;~~

(xiv) ~~§ 11-303, § 11-306, or § 11-307 of the Criminal Law Article;~~

(xv) ~~§ 12-102, § 12-103, § 12-104, § 12-105, § 12-109, § 12-203, § 12-204, § 12-205, or § 12-302 of the Criminal Law Article;~~

(xvi) ~~§ 13-401, § 13-602, or § 16-201 of the Election Law Article;~~

(xvii) ~~[§ 4-500 of the Family Law Article;~~

(xviii) ~~§ 18-215 of the Health—General Article;~~

~~[(xix)] (XVIII) § 4-411 or § 4-2005 of the Housing and Community Development Article;~~

~~[(xx)] (XIX) § 27-403, § 27-404, § 27-405, § 27-406, § 27-406.1, § 27-407, § 27-407.1, or § 27-407.2 of the Insurance Article;~~

~~[(xxi)] (XX) § 8-725.4, § 8-725.5, § 8-725.6, § 8-725.7, § 8-726, § 8-726.1, § 8-727.1, or § 8-738.2 of the Natural Resources Article or any prohibited act related to speed limits for personal watercraft;~~

~~[(xxii)] (XXI) § 10-301, § 10-306, § 10-308.1, § 10-413(e)(1), § 10-418, § 10-502, § 10-611, or § 10-907(a) of the Natural Resources Article;~~

~~[(xxiii)] (XXII) § 5-307, § 5-308, § 6-602, § 7-402, or § 14-114 of the Public Safety Article;~~

~~[(xxiv)] (XXIII) § 7-318.1, § 7-509, or § 10-507 of the Real Property Article;~~

~~[(xxv)] (XXIV) § 9-124 of the State Government Article;~~

~~[(xxvi)] (XXV) § 13-1001, § 13-1004, § 13-1007, or § 13-1024 of the Tax—General Article;~~

~~[(xxvii)] (XXVI) § 16-303 of the Transportation Article; or~~

~~[(xxviii)] (XXVII) the common law offenses of affray, rioting, criminal contempt, battery, or hindering;~~

~~(2) a felony that is a violation of:~~

~~(i) § 7-104 of the Criminal Law Article;~~

1 (ii) ~~the prohibition against possession with intent to distribute a~~
2 ~~controlled dangerous substance under § 5-602 of the Criminal Law Article; or~~

3 (iii) ~~§ 6-202(a), § 6-203, or § 6-204 of the Criminal Law Article; or~~

4 (3) ~~an attempt, a conspiracy, or a solicitation of any offense listed in item~~
5 ~~(1) or (2) of this subsection.~~

6 (e) (1) ~~Except as otherwise provided in this subsection, a petition for~~
7 ~~expungement under this section may not be filed earlier than 5 years after the person~~
8 ~~satisfies the sentence or sentences imposed for all convictions for which expungement is~~
9 ~~requested, including parole, probation, or mandatory supervision.~~

10 (2) ~~A petition for expungement for [a violation of § 3-203 of the Criminal~~
11 ~~Law Article or] common law battery may not be filed earlier than 7 years after the person~~
12 ~~satisfies the sentence or sentences imposed for all convictions for which expungement is~~
13 ~~requested, including parole, probation, or mandatory supervision.~~

14 (3) ~~A petition for expungement for an offense classified as a domestically~~
15 ~~related crime under § 6-233 of this article may not be filed earlier than 15 years after the~~
16 ~~person satisfies the sentence or sentences imposed for all convictions for which~~
17 ~~expungement is requested, including parole, probation, or mandatory supervision.~~

18 (4) ~~Except as provided in paragraphs (5) and (6) of this subsection, a~~
19 ~~petition for expungement of a felony may not be filed earlier than 7 years after the person~~
20 ~~satisfies the sentence or sentences imposed for all convictions for which expungement is~~
21 ~~requested, including parole, probation, or mandatory supervision.~~

22 (5) ~~A petition for expungement of a conviction of possession with intent to~~
23 ~~distribute cannabis under § 5-602 of the Criminal Law Article may not be filed earlier than~~
24 ~~3 years after the person satisfies the sentence or sentences imposed for all convictions for~~
25 ~~which expungement is requested, including parole, probation, or mandatory supervision.~~

26 (6) ~~A petition for expungement of a conviction for § 6-202(a), § 6-203, or a~~
27 ~~felony that is a violation of § 7-104 of the Criminal Law Article may not be filed earlier~~
28 ~~than 10 years after the person satisfies the sentence or sentences imposed for all convictions~~
29 ~~for which expungement is requested, including parole, probation, or mandatory~~
30 ~~supervision.~~

31 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
32 ~~October 1, 2025.~~

33 (a) There is a Workgroup to Study Adoption of a Statute for Assault in the Third
34 Degree.

35 (b) The Workgroup consists of the following members:

1 (1) three members of the Senate of Maryland, appointed by the President
2 of the Senate;

3 (2) three members of the House of Delegates, appointed by the Speaker of
4 the House;

5 (3) the Attorney General, or the Attorney General's designee;

6 (4) the Public Defender, or the Public Defender's designee;

7 (5) the Executive Director of the Governor's Office of Crime Prevention and
8 Policy, or the Executive Director's designee;

9 (6) the President of the Maryland State's Attorneys' Association, or the
10 President's designee;

11 (7) one retired State circuit court judge with expertise in criminal law,
12 appointed by the Chief Justice of the Supreme Court of Maryland;

13 (8) one faculty member of the University of Baltimore School of Law with
14 expertise in criminal law, appointed by the Dean of the University of Baltimore School of
15 Law; and

16 (9) one representative of a group supporting victims of domestic violence,
17 appointed by the Governor.

18 (c) The Chair of the Senate Judicial Proceedings Committee and the Chair of the
19 House Judiciary Committee shall jointly designate the chair of the Workgroup.

20 (d) The Office of the Attorney General and the Department of Legislative Services
21 shall provide staff for the Workgroup.

22 (e) A member of the Workgroup:

23 (1) may not receive compensation as a member of the Workgroup; but

24 (2) is entitled to reimbursement for expenses under the Standard State
25 Travel Regulations, as provided in the State budget.

26 (f) The Workgroup shall:

27 (1) study the expansion of the State law governing assault to include a
28 third degree;

29 (2) identify practical and legal issues that the addition of a third degree
30 assault prohibition under State law may have;

1 (3) make recommendations regarding the addition of a third degree assault
2 prohibition; and

3 (4) if the Workgroup recommends adoption of a third degree assault
4 prohibition, prepare draft legislation providing for the adoption of a third degree assault
5 prohibition, with the assistance of the Department of Legislative Services.

6 (g) On or before December 1, 2026, the Workgroup shall report its findings and
7 recommendations to the Governor and, in accordance with § 2-1257 of the State
8 Government Article, the General Assembly.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
10 1, 2025. It shall remain effective for a period of 2 years and, at the end of June 30, 2027,
11 this Act, with no further action required by the General Assembly, shall be abrogated and
12 of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.