

# HOUSE BILL 980

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By: **Delegates Malone, Carr, Conway, Dumais, Feldman, Gilchrist, Heller, Jennings, Kramer, Lee, Manno, Mathias, Montgomery, Morhaim, Rudolph, Stull, and Weldon**

Introduced and read first time: February 7, 2008

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Substantive Crimes – Assault by Burning**

3 FOR the purpose of making it a felony of assault by burning to willfully and  
4 maliciously set fire to or burn another person; establishing penalties for a  
5 conviction for assault by burning; adding the crime of assault by burning to the  
6 list of crimes of violence for which certain enhanced penalties are applied to  
7 certain offenders; and generally relating to establishing a felony of assault by  
8 burning.

9 BY adding to  
10 Article – Criminal Law  
11 Section 3–216  
12 Annotated Code of Maryland  
13 (2002 Volume and 2007 Supplement)

14 BY repealing and reenacting, with amendments,  
15 Article – Criminal Law  
16 Section 14–101  
17 Annotated Code of Maryland  
18 (2002 Volume and 2007 Supplement)

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

21 **Article – Criminal Law**

22 **3–216.**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1           **(A) A PERSON MAY NOT WILLFULLY AND MALICIOUSLY SET FIRE TO OR**  
2 **BURN ANOTHER PERSON.**

3           **(B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE FELONY**  
4 **OF ASSAULT BY BURNING AND ON CONVICTION IS SUBJECT TO IMPRISONMENT**  
5 **NOT EXCEEDING 30 YEARS OR A FINE NOT EXCEEDING \$50,000 OR BOTH.**

6 14–101.

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

8                   (1) abduction;

9                   (2) arson in the first degree;

10                  (3) kidnapping;

11                  (4) manslaughter, except involuntary manslaughter;

12                  (5) mayhem;

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

15                  (7) murder;

16                  (8) rape;

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

18                  (10) carjacking;

19                  (11) armed carjacking;

20                  (12) sexual offense in the first degree;

21                  (13) sexual offense in the second degree;

22                  (14) use of a handgun in the commission of a felony or other crime of  
23 violence;

24                  (15) child abuse in the first degree under § 3–601 of this article;

25                  (16) sexual abuse of a minor under § 3–602 of this article if:

26                               (i) the victim is under the age of 13 years and the offender is an  
27 adult at the time of the offense; and

- 1 (ii) the offense involved:
- 2 1. vaginal intercourse, as defined in § 3–301 of this  
3 article;
- 4 2. a sexual act, as defined in § 3–301 of this article;
- 5 3. an act in which a part of the offender’s body  
6 penetrates, however slightly, into the victim’s genital opening or anus; or
- 7 4. the intentional touching, not through the clothing, of  
8 the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,  
9 gratification, or abuse;

10 (17) an attempt to commit any of the crimes described in items (1)  
11 through (16) of this subsection;

12 (18) continuing course of conduct with a child under § 3–315 of this  
13 article;

14 (19) assault in the first degree;

15 (20) assault with intent to murder;

16 (21) assault with intent to rape;

17 (22) assault with intent to rob;

18 (23) assault with intent to commit a sexual offense in the first degree;  
19 [and]

20 (24) assault with intent to commit a sexual offense in the second  
21 degree; **AND**

22 **(25) ASSAULT BY BURNING.**

23 (b) This section does not apply if a person is sentenced to death.

24 (c) (1) Except as provided in subsection (g) of this section, on conviction  
25 for a fourth time of a crime of violence, a person who has served three separate terms  
26 of confinement in a correctional facility as a result of three separate convictions of any  
27 crime of violence shall be sentenced to life imprisonment without the possibility of  
28 parole.

29 (2) Notwithstanding any other law, the provisions of this subsection  
30 are mandatory.

1 (d) (1) Except as provided in subsection (g) of this section, on conviction  
2 for a third time of a crime of violence, a person shall be sentenced to imprisonment for  
3 the term allowed by law but not less than 25 years, if the person:

4 (i) has been convicted of a crime of violence on two prior  
5 separate occasions:

6 1. in which the second or succeeding crime is committed  
7 after there has been a charging document filed for the preceding occasion; and

8 2. for which the convictions do not arise from a single  
9 incident; and

10 (ii) has served at least one term of confinement in a correctional  
11 facility as a result of a conviction of a crime of violence.

12 (2) The court may not suspend all or part of the mandatory 25-year  
13 sentence required under this subsection.

14 (3) A person sentenced under this subsection is not eligible for parole  
15 except in accordance with the provisions of § 4-305 of the Correctional Services  
16 Article.

17 (e) (1) On conviction for a second time of a crime of violence committed on  
18 or after October 1, 1994, a person shall be sentenced to imprisonment for the term  
19 allowed by law, but not less than 10 years, if the person:

20 (i) has been convicted on a prior occasion of a crime of violence,  
21 including a conviction for a crime committed before October 1, 1994; and

22 (ii) served a term of confinement in a correctional facility for  
23 that conviction.

24 (2) The court may not suspend all or part of the mandatory 10-year  
25 sentence required under this subsection.

26 (f) If the State intends to proceed against a person as a subsequent offender  
27 under this section, it shall comply with the procedures set forth in the Maryland Rules  
28 for the indictment and trial of a subsequent offender.

29 (g) (1) A person sentenced under this section may petition for and be  
30 granted parole if the person:

31 (i) is at least 65 years old; and

32 (ii) has served at least 15 years of the sentence imposed under  
33 this section.

1                   (2)    The Maryland Parole Commission shall adopt regulations to  
2 implement this subsection.

3                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2008.