

[Assault – Third Person Aiding One Being Assaulted]

[12A.

Any person witnessing a violent assault upon the person of another may lawfully aid the person being assaulted by assisting in that person's defense. The force exerted upon the attacker or attackers by the person witnessing the assault may be that degree of force which the assaulted person is allowed to assert in defending himself.]

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): For the current provision dealing with defenses in assault cases, see Article 27, § 12A-3.

ASSAULT

12. DEFINITIONS.

(A) IN THIS SUBHEADING THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBHEADING, "ASSAULT" MEANS THE OFFENSES OF ASSAULT, BATTERY, AND ASSAULT AND BATTERY, WHICH TERMS RETAIN THEIR JUDICIALLY DETERMINED MEANINGS.

(C) "SERIOUS PHYSICAL INJURY" MEANS PHYSICAL INJURY WHICH:

(1) CREATES A SUBSTANTIAL RISK OF DEATH;

(2) CAUSES SERIOUS, PERMANENT OR SERIOUS PROTRACTED DISFIGUREMENT;

(3) CAUSES SERIOUS, PERMANENT OR SERIOUS PROTRACTED LOSS OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN; OR

(4) CAUSES SERIOUS, PERMANENT OR SERIOUS PROTRACTED IMPAIRMENT OF THE FUNCTION OF ANY BODILY MEMBER OR ORGAN.

COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27): Similar to the revision of the burglary laws, the Committee has chosen to retain the judicially determined meanings of the terms "assault", "battery", and "assault and battery". The meaning of these terms has been extensively developed at common law and case law. See e.g., Lamb v. State, 93 Md. App. 422 (1992). Also, as with the burglary revision, the Committee does not intend to "freeze" the meanings of these terms, but expects that they will continue to be clarified when appropriate in future case law.

The definition of "serious physical injury" is based on the definition proposed by the Model Penal Code and adopted by New York. The Committee modified the definition to add the word "protracted" in reference to disfigurement in subsection (f)(2). A disfigurement that can be remedied through medical treatment may be considered protracted. Also, in subsection (f)(3) and (4), the word "permanent" was added to clarify that the loss or impairment could be permanent as well as protracted.

12A. SECOND DEGREE ASSAULT.

(A) A PERSON MAY NOT COMMIT AN ASSAULT.