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At FrizWoods LLC, we specialize in defending Second Degree Assault cases across Maryland. Our experienced assault trial attorneys are dedicated to guiding you through the complexities of Maryland assault laws and to securing the best possible outcome for your situation. Understanding Second Degree Assault in Maryland In Maryland's District Courts, Second Degree Assault is one of the most commonly charged offenses. Under Criminal Law Article Section 3-203, second-degree assault can result in up to ten years in prison and a maximum fine of \$2,500. Despite seeming straightforward ("Committing an assault is prohibited"), the law encompasses more detail than meets the eye. Key Elements of Second Degree Assault Under Maryland law, assault can include: Battery: Harmful or offensive physical contact. Attempted Battery: An intentional but unsuccessful attempt to cause physical harm. Intent to Frighten: Conduct aimed at causing a victim to fear imminent harm. Notably, self-defense can often negate these charges when justified by law. The Legal Intricacies of a Second Degree Assault Charge Prosecutors must prove several elements in a second-degree assault, such as intent, lack of consent, and the defendant's present ability to cause harm. For instance, proving "intent to frighten" requires showing the defendant intended to place the victim in fear of immediate harm and had the apparent ability to carry out that harm. Additionally, Maryland recognizes "reasonable physical force by parent or guardian for discipline" as a defense, provided it does not become excessive or cruel. Learn more from our post on spanking and child discipline. Frequently Asked Questions about Second Degree Assault Is Second Degree Assault in Maryland ever a felony? Generally, second-degree assault is a misdemeanor. However, assault on law enforcement or first responders can be charged as a felony if physical injury occurs. How does Second Degree Assault differ from First Degree Assault? First Degree Assault is a felony involving serious bodily harm or use of a firearm/weapon. Second-degree assault often applies where injuries are less severe or no weapon is used. Typical Sentence for Second Degree Assault A first-time offense might lead to supervised probation or, in more serious scenarios, jail time. The statutory maximum is ten years in prison, but that severe sentence is unusual for a first offense. How many years do you get for assault in Maryland? Penalties vary by degree. For 2nd-degree assault, up to ten years' incarceration is possible under Maryland law. What about Third Degree Assault in Maryland? Maryland law does not define a "third-degree assault." Only first and second-degree assault statutes exist in this state. How can you get Second Degree Assault charges dropped? Dismissals can involve demonstrating self-defense, challenging witness credibility, or proving insufficient evidence. An experienced attorney can tailor the best strategy. Is Second Degree Assault a crime of violence in Maryland? It can be considered a "crime of violence" for certain legal contexts, such as firearm disqualification. However, it is not categorized as a crime of violence under certain parole guidelines in the correctional services act. How FrizWoods LLC Helps You Navigate a Second Degree Assault Charge At FrizWoods LLC, we prioritize clear communication and comprehensive defense strategies. Our team reviews every aspect of your arrest, from the circumstances surrounding the alleged assault to any possible legal justifications. Our selective goal is to protect your rights and minimize the lasting impact on your life. Local Knowledge & Proven Expertise We represent clients in Prince George's County, Anne Arundel County, Howard County, and beyond. Our attorneys know how each jurisdiction handles assault charges, helping us craft defenses tailored to the local court's procedures and tendencies. What Our Clients Say See the difference in our client-centered approach by visiting our reviews page. Read firsthand testimonials from individuals we've successfully represented for assault and other criminal charges. Ready to Take Action on a Second Degree Assault Charge? If you're facing second-degree assault charges in Maryland, early legal intervention can make a significant difference in your case. FrizWoods LLC stands ready to fight on your behalf, ensuring your story is heard and your rights are upheld. Contact us today or call our office to schedule a consultation. Together, we'll develop a clear plan to address your charges head-on and pursue the best possible result. Elements of the Offense There are three different forms of second degree assault in Maryland: intent to frighten assault, attempted battery assault, and battery. In order to prove "intent to frighten" assault, the government must provide beyond a reasonable doubt: (1) that the defendant committed the act with an intent to place the other person in fear of either immediate physical offensive contact or physical harm, (2) that the defendant had the apparent ability, at the time of the incident, to bring about offensive physical contact or physical harm, and (3) that the other person reasonably feared immediate offensive physical contact or physical harm. If there is sufficient evidence to support a claim of self-defense, the government must also prove that the defendant's actions were not legally justified. Assault can also be an attempt to cause offensive physical contact or physical harm. In order to prove the "attempted battery" form of assault, the government must prove beyond a reasonable doubt: (1) that the defendant actually tried to cause immediate offensive physical contact or physical harm to the other person, and (2) that the defendant intended to bring about offensive physical contact or physical harm. Again, if there is sufficient evidence to support a claim of self-defense, the government must also prove that the defendant's action were not legally justified. Consent without force. Finally, assault can be defined as actual causing physical contact with another person. In order to secure a conviction for "battery" assault, the State must prove: (1) that the defendant caused offensive physical contact or physical harm to the other person, and (2) that the contact was the result of an intentional or reckless act of the defendant and was not accidental. Once again, the defendant can argue self-defense. Maryland Pattern Jury Instruction - Cr. 4-01. Penalties A person who is convicted of second degree assault is subject to imprisonment of up to 10 years and/or a maximum fine of \$2,500. Md. Code Ann., Crim. Law § 3-203 (2012). (a) A person may not commit an assault. (b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both. (c) (1) In this subsection, "physical injury" means any impairment of physical condition, excluding minor injuries. (2) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is: (i) a law enforcement officer engaged in the performance of the officer's official duties; (ii) a parole or probation agent engaged in the performance of the agent's official duties; or (iii) a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services. (3) A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both. Second-degree assault charges in Maryland can dramatically alter someone's life, carrying serious legal consequences that many people do not fully understand until they're facing charges themselves. But what is second-degree assault, and how does it differ from other forms of assault? What is the penalty for second degree assault in Maryland? It can include up to 10 years in jail and substantial fines, making it crucial to understand both the legal definition and potential consequences. These charges often arise from various situations, from heated arguments to misunderstandings, and can affect people from all walks of life. This comprehensive guide examines the specifics of second-degree assault in Maryland, breaking down the legal elements, potential penalties, defense strategies, and available support resources. Whether you're facing charges or seeking to understand the law better, you'll find clear explanations and practical information to navigate this serious legal matter. Defining Second-Degree Assault in Maryland In Maryland's legal system, second-degree assault encompasses a range of physical actions and threats that can result in criminal charges. Under the Maryland Criminal Code, specifically Section 3-203, second-degree assault is defined as intentionally causing or attempting to cause physical harm to another person or creating a reasonable apprehension of immediate harmful contact. Legal elements of second-degree assault The prosecution must prove several key elements to establish second-degree assault. First, there must be objective evidence of a serious threat, intimidation, violence, or unwanted touching. Importantly, the law applies an objective standard—prosecutors must demonstrate that a reasonable person would perceive the actions as threatening or intimidating. Second-degree assault can occur in three primary ways: Intentional harmful contact with another person: Creating reasonable fear of immediate physical harm (intent to frighten) Attempting but failing to make harmful contact (attempted battery) Types of second-degree assault There are several types of second-degree assault in Maryland, including: Offensive physical contact: This involves intentional touching that is unwanted and offensive to the victim. Battery: The intentional causing of physical harm to another person. Attempted battery: Trying but failing to cause physical harm to another person. Intent to frighten: Creating a reasonable fear of immediate physical harm in another person. Common misconceptions about assault charges One prevalent misconception is that victims can simply "drop the charges." However, the decision to prosecute lies with the State of Maryland, not the victim. Even if the victim later changes their statement or refuses to cooperate, prosecutors can still pursue the case using other evidence. Another common misunderstanding involves self-defense. While self-defense is a valid legal defense, it must be proven at trial. It's crucial to understand that self-defense is not a "get out of jail free" card. The burden of proof is on the defendant to establish self-defense. Factors Affecting Penalty Severity Several key elements influence the severity of punishment in second-degree assault cases: Prior criminal history: Extent of victim injuries: Use of weapons: Vulnerability of the victim: Circumstances of the assault: Over half of more serious cases involve weapon use and nearly 20% result in permanent injury. Domestic violence cases typically face stricter penalties and often require additional measures like mandatory counseling or anger management programs. Long-term consequences of conviction: Beyond immediate penalties, a second-degree assault conviction carries significant lasting impacts. It's considered a disqualifying crime that prohibits the possession of regulated firearms in Maryland. The conviction remains on your criminal record, potentially affecting: Employment opportunities: Housing applications: Professional licenses: Background checks: The court may also order restitution payments for victims' medical expenses, which can be substantial in cases involving serious injuries. Additionally, there are no diversion programs or alternative sentencing options available for this offense, making it crucial to understand the full scope of potential consequences. First-time offenders typically receive more lenient treatment compared to those with prior convictions. However, even a single conviction can have far-reaching implications for your future opportunities and legal rights. The second-degree assault Maryland minimum sentence can still be significant, even for first-time offenders. Building a Strong Legal Defense Constructing an effective defense against second-degree assault charges requires a strategic approach and thorough preparation. Time is crucial in building a strong case, as early preparation allows your legal team to examine every aspect of the allegations. Common defense strategies Several proven defense strategies can be employed in second-degree assault cases. The most common include: Self-defense: You must demonstrate reasonable belief of imminent danger and use proportional force. Defense of others: Similar to self-defense, but involves protecting a third party from immediate harm. Lack of intent: Proving the alleged act was accidental or unintentional. Mistaken identity: Establishing you were wrongly identified as the perpetrator. How to beat a 2nd degree assault charge Maryland To beat a second-degree assault charge in Maryland, consider these strategies: Gather evidence: Collect any physical evidence, witness statements, or surveillance footage that supports your case. Challenge the prosecution's evidence: Work with your attorney at The Law Offices of SRIS, P.C. to identify weaknesses in the state's case. Establish lack of intent: If applicable, demonstrate that any contact was accidental or unintentional. Prove self-defense: If you acted in self-defense, gather evidence to support your claim of reasonable fear and proportional response. Negotiate plea deals: In some cases, working with prosecutors to reduce charges or penalties may be the best option. Evidence-gathering and documentation: Building a strong case relies heavily on collecting and preserving evidence. Physical evidence often includes photographs of injuries, medical records, and surveillance footage. Eyewitness testimony plays a crucial role as assault cases frequently depend on witness accounts. Your defense team from The Law Offices of SRIS, P.C. will focus on: Reviewing and challenging the state's evidence. Gathering relevant witness statements. Documenting the timeline of events. Collecting medical records when applicable. Securing surveillance footage if available. Working with legal counsel. Collaboration with your attorney is essential for developing an effective defense strategy. Your Maryland second degree assault lawyer will need detailed information about the incident to prepare the strongest possible case. The defense team will: Review case details: Examine every aspect of the allegations and identify potential weaknesses in the prosecution's case. Challenge evidence: Question witness credibility and contest inadmissible evidence. Prepare for trial: Your second degree assault Maryland attorney will help you understand court procedures and prepare you for potential questioning. Remember that the prosecution must prove guilt beyond a reasonable doubt. A competent Maryland second degree assault lawyer will work to create this doubt by highlighting inconsistencies in evidence and presenting alternative explanations for the alleged incident. Navigating the Legal Process Understanding the legal timeline is crucial when facing second-degree assault charges in Maryland. The process follows a structured path from arrest through resolution, with several critical decision points along the way. Steps from arrest to resolution The legal journey typically begins with an arrest, followed by booking at a local police station. During booking, officers collect personal information, take fingerprints, and capture a mugshot. It's essential to remember your right to remain silent until you have legal representation. Key steps in the process include: Initial appearance before a commissioner. Bail determination. Formal charging. Preliminary hearing (if applicable). Discovery phase. Trial or plea resolution. During the initial appearance, a commissioner determines whether you can be released on bail or must remain in custody. If denied bail, defendants charged with felonies have the right to request a preliminary hearing within ten days. Court procedures and timelines The discovery phase allows both the prosecution and defense to exchange evidence and information relevant to the case. This period is crucial for building a strong defense strategy, as your legal team can: Review evidence: Examine police reports, witness statements, and physical evidence. File motions: Address legal issues before trial. Prepare strategy: Develop defense approaches based on available evidence. The timeline from arrest to resolution varies depending on case complexity and court schedules. Prosecutors must file charges within specific time limits, though serious felonies like assault have longer statutes of limitations. Plea bargaining considerations Plea negotiations often play a significant role in second-degree assault cases. When considering a plea deal, several factors require careful evaluation: Strength of the prosecution's evidence. Potential sentence reduction. Long-term consequences of a guilty plea. Impact on future employment opportunities. Alternative sentencing options. The state's attorney has discretion in plea negotiations, and while victim input matters, the final decision rests with the prosecutor. Plea agreements must meet specific requirements, including: Voluntary acceptance: Defendants must understand and freely accept the terms. Legal representation: Competent counsel throughout negotiations. Judicial approval: Court must review and approve any plea agreement. Remember that even if a victim supports dismissing charges, that decision ultimately lies with the state's attorney prosecuting the case. Working closely with experienced legal counsel helps navigate these complex negotiations effectively. How to get second-degree assault charges dropped? While it's challenging to get 2nd degree assault Maryland charges dropped entirely, several strategies may lead to dismissal of charges: Prove lack of evidence: If the prosecution lacks sufficient evidence to prove guilt beyond a reasonable doubt, charges may be dropped. Demonstrate self-defense: Providing clear evidence that your actions were in self-defense can lead to charge dismissal. Identify procedural errors: If law enforcement made mistakes during arrest or evidence collection, it might result in charge dismissal. Participate in diversion programs: In some cases, completing court-approved programs may lead to charge dismissal. Negotiate with prosecutors: Your Maryland second degree assault lawyer may be able to negotiate for charge dismissal in exchange for other concessions. Support Resources and Recovery When dealing with second-degree assault cases in Maryland, accessing the right support resources can make a significant difference in both legal outcomes and personal recovery. Various organizations and programs offer comprehensive assistance to those involved in assault cases, whether as defendants or victims. Legal support services The Maryland Court Help Center provides legal assistance for civil matters from 8:30 AM to 8:00 PM, Monday through Friday. For particular support, the Sexual Assault Legal Institute (SALI) offers comprehensive legal services to survivors, including representation, advocacy, and legal consultations. Key legal support services include: Legal representation for protective orders, peace orders, and custody matters. Civil and criminal advocacy. Court accompaniment services. Individualized safety planning. The House of Ruth Maryland's Marjorie Cook DV Legal Clinic assists with obtaining protective orders, peace orders, and custody arrangements. These services ensure that individuals have access to proper legal guidance throughout their case. Counseling and rehabilitation options The Department of Public Safety and Correctional Services offers various rehabilitation programs focusing on: Education and skill development. Substance abuse treatment. Anger management courses. Employment preparation. The flagship restorative justice program, Public Safety Works, helps offenders develop employment skills while giving back to the community. This program serves as a bridge to meaningful employment, teaching essential workplace skills and teamwork. For those seeking mental health support, Maryland offers counseling services, including individual counseling, group therapy, and community support programs. The Maryland Domestic Violence Program operates nationwide, providing temporary shelter and comprehensive support services through local programs. These programs coordinate with law enforcement agencies, courts, hospitals, local social services departments. The Family Justice Center offers immediate and long-term solutions through a "one-stop shop" process, including: Emergency shelter placement. Social services coordination. Family support services. Transportation assistance. For ongoing recovery, the Victim Services program provides crucial support, including crisis counseling, advocacy services, and safety planning. Additionally, particular programs offer support for substance abuse treatment and rehabilitation, with services available through drug treatment courts and monitoring programs. Treatment primarily occurs through therapy groups focusing on: Criminogenic thinking and behavior. Emotional regulation. Mindfulness techniques. Interpersonal effectiveness. Victim awareness. Each participant receives an individualized treatment plan based on their history, risk level, and specific needs. This personalized approach ensures that support services address the unique circumstances of each case while working toward positive outcomes. Conclusion Second-degree assault charges in Maryland carry serious consequences that can affect every aspect of life. Understanding the legal framework, potential penalties, and defense strategies provides essential preparation for anyone facing these charges. Legal support remains crucial throughout the process, from initial arrest through final resolution. Maryland's comprehensive network of support services offers valuable resources for both defendants and victims, helping navigate legal complexities while addressing personal recovery needs. Success in assault cases often depends on quick action and proper legal guidance. Building a strong defense strategy early, understanding available support systems, and working closely with experienced legal counsel significantly improve the likelihood of beneficial outcomes. Remember that each case presents unique circumstances, making personalized legal strategies and support services essential for addressing specific needs and challenges. Whether you're dealing with a first-time second-degree assault charge or a more complex case involving multiple incidents, your legal team from The Law Offices of SRIS, P.C. will work to protect your rights and achieve the best possible resolution for your situation. (a) A person may not commit an assault. (b) Except as provided in subsection (c) of this section, a person who violates subsection (a) of this section is guilty of the misdemeanor of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$2,500 or both. (c) (1) In this subsection, "physical injury" means any impairment of physical condition, excluding minor injuries. (2) A person may not intentionally cause physical injury to another if the person knows or has reason to know that the other is: (i) a law enforcement officer engaged in the performance of the officer's official duties; (ii) a parole or probation agent engaged in the performance of the agent's official duties; or (iii) a firefighter, an emergency medical technician, a rescue squad member, or any other first responder engaged in providing emergency medical care or rescue services. (3) A person who violates paragraph (2) of this subsection is guilty of the felony of assault in the second degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both. Maryland's second degree assault laws lay a crucial role in maintaining public safety and addressing acts of violence. These laws delineate the boundaries between acceptable behavior and criminal conduct, ensuring accountability for harmful actions. Understanding these laws involves examining their specific criteria, penalties, and potential legal defenses. Criteria for Second Degree Assault In Maryland, second degree assault is defined under Md. Code Ann., Crim. Law Section 3-203. This statute outlines the elements of the offense, which involve intentionally causing or attempting to cause physical harm to another person. Actual physical injury is not required; the attempt or threat of harm is sufficient if it places the victim in reasonable fear of imminent bodily harm. This broad definition includes behaviors ranging from physical attacks to threatening gestures. The law distinguishes second degree assault from first degree assault, which involves more serious harm or the use of a firearm. Intent is a key factor in determining the charge. Acts committed recklessly or negligently may not meet the criteria for second degree assault as deliberate intent to cause harm is required. This distinction affects the charges brought against the accused. Penalties for second degree assault in Maryland reflect the seriousness of the offense. While classified as a misdemeanor, a conviction may result in imprisonment for up to 10 years, a fine of up to \$2,500, or both. The severity of the sentence often depends on factors such as the circumstances of the assault and the defendant's prior criminal record. Judges have discretion in sentencing, considering mitigating factors like intent, degree of harm caused, and prior convictions. For example, a first-time offender may receive a more lenient sentence compared to someone with a history of violent behavior. Legal Defenses and Exceptions Defendants may explore various legal defenses and exceptions to challenge second degree assault charges. Self-defense is a common strategy, claiming actions were necessary to protect against imminent harm. Maryland law recognizes this defense if the force used was reasonable and proportional to the threat. In *Dykes v. State*, the court emphasized the need for a genuine belief in danger and the necessity of the response. Defense of others operates similarly, applying when protecting another person. The same principles of reasonableness and proportionality apply. Consent can also be a viable defense if the alleged victim agreed to the conduct, as in cases of mutual combat. In some cases, the absence of intent can be a defense. Since second degree assault requires intent to cause harm, showing that actions were accidental or lacked intent may be acquittal. Evidence demonstrating recklessness or negligence rather than deliberate intent can support this defense. Impact on Civil Liability A conviction for second degree assault in Maryland can have significant civil implications. Victims may pursue civil lawsuits to seek compensation for damages, including medical expenses, lost wages, pain and suffering, and emotional distress. The burden of proof in civil cases is lower than in criminal cases, requiring only a preponderance of the evidence rather than proof beyond a reasonable doubt. Maryland courts recognize that a criminal conviction can serve as compelling evidence in a civil case, simplifying the victim's path to obtaining a favorable judgment. However, even if a defendant is acquitted in criminal court, they may still face civil liability, as the standards and objectives of civil and criminal proceedings differ. Rights of Protective Orders Protective orders play a critical role in cases involving second degree assault. These orders provide immediate relief and protection to victims of assault or threats of violence. A protective order can impose restrictions on the alleged offender, such as prohibiting contact with the victim, requiring the surrender of firearms, or mandating participation in counseling or treatment programs. Victims can petition for a protective order through the district or circuit court. The process involves a hearing where both parties present evidence and testimony. The court determines the necessity of the order based on evidence of harm or threat. Violating a protective order is a separate criminal offense in Maryland, carrying its own penalties, underscoring the seriousness of these measures. Second-degree assault in Maryland is a serious charge with significant legal consequences. While less severe than first-degree assault, a conviction can still result in jail time, fines, and a permanent criminal record. Understanding how the law defines this offense and what factors influence penalties is crucial for anyone facing such charges or seeking general legal knowledge. This article breaks down key aspects of second-degree assault in Maryland, including penalties, court procedures, and possible defense strategies. Elements of the Offense Maryland law defines second-degree assault under Maryland Code, Criminal Law 3-203 as intentionally causing physical harm to another person, attempting to cause harm, or placing someone in reasonable fear of imminent bodily injury. Unlike first-degree assault, which involves more severe circumstances such as the use of a firearm or intent to cause serious injury, second-degree assault covers a broader range of conduct, including minor physical altercations and threats that create a legitimate fear of harm. The prosecution must prove the defendant acted intentionally, meaning the act was not accidental or purely negligent. Physical contact is not always required; Maryland courts have upheld convictions where a defendant's threats or actions placed a victim in reasonable apprehension of immediate harm. The standard for "reasonable fear" is based on what an ordinary person would perceive under similar circumstances. The statute differentiates between offensive physical contact and actual bodily harm. Unwanted blows or slaps can be sufficient for a charge if deemed intentional and non-consensual. Even minor injuries, such as bruises or scratches, can meet the legal threshold if the prosecution proves intent. Aggravating Factors Certain circumstances can increase the severity of a second-degree assault charge. One key factor is the identity of the alleged victim. Assaults against law enforcement officers, firefighters, paramedics, or any other first responders performing official duties are treated with increased severity. The prosecution must show the defendant knew or should have known the victim was acting in a professional capacity. The degree of harm inflicted also influences how the case is prosecuted. While second-degree assault does not require serious physical injury, cases involving significant bodily harm, prolonged medical treatment, or permanent disfigurement often receive greater scrutiny. Assaults resulting in hospitalization or extensive medical intervention may indicate a higher level of intent or recklessness, leading to stricter prosecution. The use of weapons or dangerous objects, even if they did not cause serious injury, can also be an aggravating factor. While firearms generally elevate an assault charge to first-degree, other objects—such as knives, blunt instruments, or household items—can be deemed dangerous based on their use. Courts assess whether an object's potential to cause harm and the manner in which it was wielded justify more severe legal consequences. Potential Penalties Second-degree assault in Maryland is classified as a misdemeanor, but the penalties can be severe. A conviction carries a maximum sentence of up to 10 years in prison and a fine of up to \$2,500. Sentencing depends on the case's circumstances and the defendant's criminal history. Repeat offenders or those with prior violent crime convictions often face harsher penalties. Judges consider an individual's past record when determining sentencing, particularly if there is a pattern of violent behavior. If the offense occurred while the defendant was on probation or parole, the court may impose consecutive sentencing, requiring the new sentence to be served after the current sentence. Beyond incarceration and fines, a conviction can have long-term consequences. A permanent criminal record can affect employment, professional licensing, and housing opportunities. Maryland law allows for expungement of certain misdemeanor convictions, but individuals must wait 15 years after completing their sentence. Subsequent convictions can disqualify them from expungement. Court Procedure From Arrest to Trial A second-degree assault charge in Maryland typically begins with an arrest, either at the scene or later if a warrant is issued. Law enforcement officers may make an immediate arrest if they have probable cause. In domestic violence cases, officers may be required to arrest the accused even if the alleged victim does not wish to press charges. If the accused is not present, a District Court Commissioner may issue an arrest warrant based on law enforcement or complainant evidence. Once in custody, the accused appears before a commissioner within 24 hours for an initial appearance, where conditions for release are determined. The commissioner may release the accused on their own recognizance, set bail, or order detention based on the severity of the allegations and the defendant's history. If bail is set, the accused can post the full amount or use a bail bondsman, who typically requires a 10% non-refundable fee. If denied bail, the defendant remains in custody until a bail review hearing before a judge. If the charge is filed in Circuit Court, a preliminary hearing determines whether probable cause exists. If the case proceeds, formal charges are filed through an Information or Grand Jury indictment, followed by an arraignment, where the defendant enters a plea—guilty, not guilty, or, in some cases, an Alford plea, acknowledging sufficient evidence for a conviction while maintaining innocence. Pre-trial proceedings include motions hearings, discovery, and plea negotiations. The prosecution must disclose all evidence, including witness statements and police reports. Defense attorneys may file motions to suppress evidence or challenge constitutional protections. Plea negotiations can lead to reduced charges or alternative sentencing, potentially avoiding trial. Possible Defense Approaches Several legal strategies can be used to challenge a second-degree assault charge. One of the most common defenses is self-defense, which Maryland law recognizes when a defendant can show they used force to protect themselves from imminent harm. To establish this defense, the accused must prove they reasonably believed they were in immediate danger, that the force used was proportional to the threat, and that they were not the initial aggressor. Maryland law does not require a person to retreat if they are in a place where they have a legal right to be, a principle known as the Castle Doctrine when applied to one's home. However, if excessive force was used, the self-defense argument may be weakened. Another defense is lack of intent, which challenges the prosecution's ability to prove the act was intentional. Since second-degree assault requires willful action, demonstrating that physical contact or perceived threats were accidental can lead to dismissal or acquittal. This defense is particularly relevant in crowded environments, such as bars or sporting events, where incidental contact may be misinterpreted as aggression. Mistaken identity can also be a defense if evidence suggests the defendant was not the person responsible. Surveillance footage, alibi witnesses, or inconsistencies in the accuser's testimony can be used to cast doubt on the prosecution's case. When to Seek Legal Counsel Anyone facing a second-degree assault charge in Maryland should seek legal representation immediately. The complexity of assault laws and the potential for severe penalties make it difficult to navigate the legal system without professional guidance. An attorney can assess the evidence, identify weaknesses in the prosecution's case, and negotiate for reduced charges or alternative sentencing options. Legal counsel is especially important when aggravating factors are present, such as allegations involving law enforcement officers or medical professionals. Prosecutors are often less inclined to offer leniency in these cases, making a strong defense critical. Additionally, individuals with prior criminal records or those facing collateral consequences, such as immigration issues or professional licensing concerns, should work closely with an attorney to mitigate long-term repercussions. Without proper legal representation, defendants risk making procedural mistakes or accepting plea deals that may not be in their best interests. December 29, 2022 | By Albers & Associates In Maryland, second-degree assault is defined as intentionally causing or attempting to cause physical injury to another person. This charge is codified under Maryland Criminal Law 3-203 and is the lesser of the two assault crimes, the first being "first-degree assault." Is Second-Degree Assault A Felony In Maryland? No. Second-degree assault is not a felony in Maryland. Second-degree assault is classified as a misdemeanor in Maryland, punishable by up to 10 years in prison and a fine of up to \$2,500. However, this is the maximum penalty, and for first offenders, it is extremely rare to see the maximum penalty applied in cases revolving around second-degree assault. What Are Examples of Second Degree Assault? Second-degree assault is a criminal offense involving intentionally or recklessly causing physical injury to another person. It is typically a less severe offense than first-degree assault, which involves the intentional use of a deadly weapon or the intent to cause serious bodily harm. Examples of second-degree assault may include: Punching or striking someone with a closed fist or another object, resulting in bruises, cuts, or other injuries. Kicking or shoving someone, causing them to fall and sustain injuries. Throwing an object at someone, causing injury. Driving a vehicle in a reckless or aggressive manner, which could result in injury to pedestrians or other drivers. Using a weapon in a way that is likely to cause injury, such as swinging a baseball bat at someone or brandishing a knife. It's important to note that the specific elements of second-degree assault may vary depending on the laws of the jurisdiction in which the offense is committed. In some cases, the use of a deadly weapon or the intent to cause serious bodily harm may be required in order to be charged with second-degree assault. How Can I Be Charged With Second-Degree Assault? To be charged with second-degree assault, the prosecution must prove that the defendant acted to cause physical injury to the victim and that the victim suffered serious physical injury due to the defendant's actions. Serious physical injury is an injury that creates a substantial risk of death or causes serious and permanent disfigurement. This is a higher level of injury than simple physical injury, which only requires evidence of pain or impairment. Examples of actions that could lead to a charge of second-degree assault include punching someone and causing a broken bone or concussion or stabbing someone with a knife and causing significant injury. In cases involving domestic violence, second-degree assault can also be charged as violating a protective order. Suppose the defendant has been issued a protective order prohibiting them from assaulting their domestic partner, and they violate that order by causing serious physical injury. In that case, they can be charged with second-degree assault. It's important to note that a person can be charged with second-degree assault even if they did not directly cause the victim's injury. If the defendant aided or abetted another person in committing the assault, or if they intentionally caused the victim to suffer an injury through their actions or inaction, they can still be charged with second-degree assault. Defenses for a Second-Degree Assault Charge Several defenses may be raised in the event of a second-degree assault charge. Some of the most common defenses include: If you were acting in self-defense or in defense of others, you might be able to argue that the assault was justified. To be found guilty of second-degree assault, you must have intended to cause harm to the victim. If you did not intend to cause harm, you might be able to argue that you did not commit the crime. If the assault resulted from an accident and was not intentional, you may be able to argue that you are not guilty of the crime. If you were wrongfully accused of the assault, you might be able to argue that you are not guilty due to mistaken identity. In some cases, it may be possible to argue that you were not legally responsible for the assault because you had a mental illness or were in an altered state of mind at the time of the incident. It's important to note that even if the victim does not press charges or does not want the defendant to be prosecuted, the state can still pursue a second-degree assault charge. The decision to prosecute is ultimately up to the state's attorney's office. If you have been charged with second-degree assault in Maryland, it's important to seek legal representation as soon as possible. An experienced criminal defense attorney can help you understand the charges against you and advise you on the best course of action. In conclusion, second-degree assault in Maryland is the intermediate severity of assault charges. It requires the prosecution to prove that the defendant acted to cause physical injury to the victim and that the victim suffered serious bodily injury as a result. If you have been charged with second-degree assault, it is crucial to seek legal counsel as soon as possible. The experienced attorneys at Albers Law can help you navigate the legal process and provide you with the best defense possible. Don't try to handle this situation alone; let the Albers Law team fight for your rights and work to achieve the best possible outcome for your case. Contact Albers Law today to schedule a consultation and take the first step toward protecting your future. The post Second Degree Assault In Maryland: What is it? appeared first on Albers and Associates. Second degree assault is a Maryland crime that encompasses the common law offenses that used to be charged as "assault," "battery," and "assault and battery." Although assault in the second degree is a misdemeanor, it carries hefty penalties of up to 10 years of incarceration and/or a fine of up to \$2,500. One can be found guilty of this crime in a variety of ways: intending and causing offensive physical contact with another person (i.e., punching another person); attempting to cause offensive physical contact on another person although not succeeding (i.e., taking a swing and missing); and intentionally placing someone in fear of immediate physical harm. The commission of a second degree assault can be serious and technical. For example, someone who is cut off by another driver might get out of his car and repeatedly punch the other driver in the face resulting in relatively serious injuries. Such an offender may be at risk for serving a significant period of incarceration. Or an employer who is frustrated with an employee who is always late and disrespectful to customers might grab the employee by the arm and yell, "You need to get your act together." Although the employee suffered no harm, technically, the employer committed an offensive physical touching of the employee. The employer might not be at risk for jail time, but the employer may not want to risk getting a conviction that could adversely affect his or her career and reputation in the community. One common mistake that we see, probably because of scenarios depicted in movies, television shows, and sports events, is second-degree assault by a pitcher intentionally hitting a batter. For example, a pitcher intentionally hits a batter with a pitch to get the batter out of the batter's box. The pitcher technically does not intend to hit the batter by intentionally hitting the batter with the pitch (if it could be proven that the pitcher intended to hit the batter). Getting hit by the pitch does not give the batter the legal justification to go out to the mound and punch the pitcher, although many baseball fans might consider that action "part of the game." The law of self-defense in Maryland allows the batter to use only the amount of force necessary to defend himself from further harm. Thus, there was no need, for defense purposes, for the batter to charge the mound. (A more complicated question of self-defense may occur when the pitcher throws the next pitch at the batter). For more common scenarios, it is important to remember that if you are the victim of an assault, the law allows you to use no more force than is reasonably necessary to defend yourself in light of the threatened or actual harm. Often, our client is not the initial aggressor but the original victim who, in response to the threat, ended up inflicting serious harm on the attacker. Far too often, the person who gets charged is not the person with the malicious intent who started the fight; it is the person who was just defending himself or others but inflicted the most damage. How an assault charge gets resolved depends on a wide variety of factors. What is the history between the parties that led to the altercation? Were they friends once, or is this a stranger on stranger event? Who is the true bad actor in the event? Did someone have racist or hateful motivations? Does the alleged "victim" have a history of similar incidents? Was the client reasonably defending himself, someone else, or his or her property? Are there any medication or mental health issues that need to be investigated and addressed on either side? Is this a situation that can be mediated without going to court? Was someone injured? If someone was injured, was it serious? Could there be a civil suit for a false allegation and malicious prosecution? Is the prosecutor someone who is going to care about who was truly at fault, or is the prosecutor someone who is just going to prosecute the person who was charged by the police? Do we want to disclose to the prosecutor all the information we have learned about the "alleged victim" or save it for trial? Aside from the risk of jail and probation, a conviction for second degree assault can have other consequences. For example, second degree assault is a disqualifying crime that will prohibit the defendant from possessing regulated firearms in Maryland. Also be aware that the laws regarding expungement have changed in recent years. Therefore, if you have an old conviction for assault, battery, assault and battery, or second degree assault, you may be able to get the case expunged, especially if you have had no other convictions for serious criminal or traffic matters. If you are confronting a situation or case involving allegations of assault, you may want to call us for a free consultation by phone or in our office.