

SENATE BILL 552

Unofficial Copy
L2

2001 Regular Session
(11r0699)

ENROLLED BILL
-- Judicial Proceedings/Judiciary --

Introduced by **Senator Colburn**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this
____ day of _____ at _____ o'clock, ____ M.

President.

CHAPTER 398

1 AN ACT concerning

2 **Eastern Shore Code Home Rule Counties - Juvenile Curfew Ordinance**

3 FOR the purpose of authorizing a code county in the Eastern Shore class to adopt a
4 model juvenile curfew ordinance under certain circumstances; ~~providing for the~~
5 ~~juvenile curfew ordinance to apply in a municipal corporation located in a~~
6 ~~county adopting the ordinance~~ authorizing a municipal corporation to adopt the
7 juvenile curfew ordinance; providing for the scope of the ordinance; requiring a
8 juvenile curfew ordinance to prohibit certain practices by certain persons;
9 providing exceptions to the ordinance; ~~authorizing local law enforcement officers~~
10 ~~to take custody of a minor violating the ordinance under certain circumstances;~~
11 ~~providing certain notice provisions~~ establishing certain procedures for law
12 enforcement officers; providing for the release of a minor taken into custody for
13 violating the ordinance under certain circumstances; providing for the issuance
14 of a certain civil citation including certain fines; defining a certain ~~term~~ terms;
15 granting exclusive original jurisdiction to the District Court over certain civil
16 citations; and generally relating to authorizing a code county in the Eastern
17 Shore class to adopt a juvenile curfew ordinance.

1 BY adding to
 2 Article 25B - Home Rule for Code Counties
 3 Section 13C-1
 4 Annotated Code of Maryland
 5 (1998 Replacement Volume and 2000 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - Courts and Judicial Proceedings
 8 Section 4-401(10)(vi)
 9 Annotated Code of Maryland
 10 (1998 Replacement Volume and 2000 Supplement)

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

13 **Article 25B - Home Rule for Code Counties**

14 13C-1.

15 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
 16 INDICATED.

17 (2) "CURFEW HOURS" MEANS:

18 ~~(I) 11:00 P.M. ON A SUNDAY, MONDAY, TUESDAY, WEDNESDAY, OR~~
 19 ~~THURSDAY UNTIL 6:00 A.M. OF THE FOLLOWING DAY; AND~~

20 ~~(II) 12:01 A.M. UNTIL 6:00 A.M. ON SATURDAY OR SUNDAY~~ 12:00 A.M.
 21 UNTIL 5:00 A.M.

22 (3) "EMERGENCY" MEANS A SUDDEN OR UNEXPECTED HAPPENING OR
 23 AN UNFORESEEN COMBINATION OF CIRCUMSTANCES THAT CALLS FOR IMMEDIATE
 24 ACTION TO PROTECT THE HEALTH, SAFETY, WELFARE, OR PROPERTY OF AN
 25 INDIVIDUAL FROM ACTUAL OR THREATENED HARM OR FROM AN UNLAWFUL ACT.

26 (4) "ESTABLISHMENT" MEANS A PRIVATELY OWNED PLACE OF
 27 BUSINESS OPERATED FOR A PROFIT TO WHICH THE PUBLIC IS INVITED.

28 (5) "GUARDIAN" MEANS A PERSON WHO IS APPOINTED BY A COURT AS A
 29 GUARDIAN OF A MINOR.

30 ~~(6) (I) "KNOWINGLY" MEANS CONSCIOUSLY, WILLFULLY, AND~~
 31 ~~INTENTIONALLY.~~

32 ~~(II) "KNOWINGLY" INCLUDES TO KNOW OR TO REASONABLY KNOW.~~

1 (7) (6) (I) "PUBLIC PLACE" MEANS A PLACE TO WHICH THE
2 GENERAL PUBLIC HAS ACCESS AND A RIGHT TO RESORT FOR BUSINESS,
3 ENTERTAINMENT, OR OTHER LAWFUL PURPOSE.

4 (II) "PUBLIC PLACE" INCLUDES:

5 1. A PUBLIC STREET, SIDEWALK, ALLEY, HIGHWAY, AND
6 RIGHT-OF-WAY OF A PUBLIC STREET OR HIGHWAY; AND

7 2. THE COMMON AREAS OF A TRANSPORT FACILITY, SCHOOL,
8 HOSPITAL, APARTMENT BUILDING, OFFICE BUILDING, SHOPPING CENTER, PARK,
9 PLAYGROUND, PARKING LOT, THEATER, RESTAURANT, BOWLING ALLEY, TAVERN,
10 CAFE, ARCADE, AND SHOPS.

11 (8) (7) "REMAIN" MEANS TO:

12 (I) LINGER OR STAY UNNECESSARILY IN A PUBLIC PLACE; OR

13 (II) FAIL TO LEAVE THE PREMISES OF AN ESTABLISHMENT OR
14 PUBLIC PLACE WHEN ASKED BY A LOCAL LAW ENFORCEMENT OFFICER OR
15 EMPLOYEE OF THE ESTABLISHMENT OR PUBLIC PLACE.

16 (B) THE PROVISIONS OF THIS SECTION APPLY TO CODE COUNTIES IN THE
17 EASTERN SHORE CLASS AS ESTABLISHED BY ARTICLE 25B, § 2.

18 (C) (1) AFTER MAKING INDEPENDENT FACTUAL FINDINGS
19 DEMONSTRATING A LOCAL NEED FOR A JUVENILE CURFEW, THE COUNTY
20 COMMISSIONERS IN THEIR RESPECTIVE JURISDICTIONS MAY ADOPT A JUVENILE
21 CURFEW ORDINANCE WHICH ~~SHALL APPLY THROUGHOUT THE COUNTY, INCLUDING~~
22 ~~IN MAY BE ADOPTED BY~~ A MUNICIPAL CORPORATION IN THE COUNTY.

23 (D) A JUVENILE CURFEW ORDINANCE SHALL STATE THAT:

24 (1) A MINOR MAY NOT REMAIN IN A PUBLIC PLACE OR ON THE PREMISES
25 OF AN ESTABLISHMENT WITHIN THE LOCAL JURISDICTION DURING CURFEW HOURS;

26 (2) A PARENT OR GUARDIAN OF A MINOR MAY NOT KNOWINGLY ALLOW
27 THE MINOR TO REMAIN IN A PUBLIC PLACE OR ON THE PREMISES OF AN
28 ESTABLISHMENT WITHIN THE LOCAL JURISDICTION DURING CURFEW HOURS; AND

29 (3) THE OWNER, OPERATOR, OR EMPLOYEE OF AN ESTABLISHMENT MAY
30 NOT KNOWINGLY ALLOW A MINOR TO REMAIN ON THE PREMISES OF THE
31 ESTABLISHMENT WITHIN THE LOCAL JURISDICTION DURING CURFEW HOURS.

32 (E) A JUVENILE CURFEW ORDINANCE ADOPTED UNDER THIS SECTION DOES
33 NOT APPLY TO A MINOR WHO IS:

34 (1) ACCOMPANIED BY THE MINOR'S PARENT OR GUARDIAN;

35 (2) PERFORMING AN ERRAND AT THE DIRECTION OF THE MINOR'S
36 PARENT OR GUARDIAN, WITHOUT A DETOUR OR STOP, UNTIL 12:30 A.M.;

1 (3) ACCOMPANIED BY A PERSON AT LEAST 18 YEARS OF AGE AND
2 AUTHORIZED BY THE MINOR'S PARENT OR GUARDIAN TO HAVE TEMPORARY CARE OR
3 CUSTODY OF THE MINOR FOR A DESIGNATED PERIOD OF TIME WITHIN A SPECIFIED
4 AREA;

5 (4) WITH CONSENT OF THE MINOR'S PARENT OR GUARDIAN, INVOLVED
6 IN INTERSTATE TRAVEL THROUGH THE LOCAL JURISDICTION OR BEGINNING OR
7 ENDING IN THE LOCAL JURISDICTION;

8 (5) ENGAGED IN LEGAL EMPLOYMENT ACTIVITY OR IS GOING TO OR
9 RETURNING HOME FROM A LEGAL EMPLOYMENT ACTIVITY, ~~WITHOUT A DETOUR OR~~
10 ~~STOP~~;

11 (6) INVOLVED IN AN EMERGENCY;

12 (7) ON THE PROPERTY WHERE THE MINOR RESIDES OR ON THE
13 SIDEWALK ABUTTING THE MINOR'S RESIDENCE OR ABUTTING THE RESIDENCE OF A
14 NEXT-DOOR NEIGHBOR, IF THE ADULT RESIDENT OF THAT PROPERTY HAS GIVEN
15 PERMISSION FOR THE MINOR'S PRESENCE;

16 (8) ATTENDING OR RETURNING DIRECTLY HOME FROM, ~~WITHOUT A~~
17 ~~DETOUR OR STOP AND WITHIN 1 HOUR BEFORE OR AFTER THE END OF:~~

18 (I) A SCHOOL, RELIGIOUS, OR RECREATIONAL ACTIVITY
19 SUPERVISED BY ADULTS AND SPONSORED BY THE LOCAL JURISDICTION, A CIVIC
20 ORGANIZATION, OR A VOLUNTARY ASSOCIATION THAT TAKES RESPONSIBILITY FOR
21 THE MINOR; OR

22 (II) A PLACE OF PUBLIC ENTERTAINMENT, INCLUDING A MOVIE,
23 PLAY, OR SPORTING EVENT;

24 (9) EXERCISING FIRST AMENDMENT RIGHTS UNDER THE UNITED
25 STATES CONSTITUTION, IF THE MINOR HAS FIRST SUBMITTED TO THE CHIEF OF THE
26 LOCAL LAW ENFORCEMENT AGENCY A WRITTEN COMMUNICATION THAT:

27 (I) IS SIGNED BY THE MINOR AND COUNTERSIGNED, IF
28 PRACTICABLE, BY THE PARENT OR GUARDIAN OF THE MINOR;

29 (II) INCLUDES THE PARENT'S OR GUARDIAN'S HOME ADDRESS AND
30 TELEPHONE NUMBER; AND

31 (III) SPECIFIES WHEN, WHERE, AND IN WHAT MANNER THE MINOR
32 WILL BE IN A PUBLIC PLACE DURING CURFEW HOURS; OR

33 (10) REMAINING IN A PUBLIC PLACE IN A CASE OF REASONABLE
34 NECESSITY IF THE MINOR'S PARENT OR GUARDIAN HAS COMMUNICATED TO THE
35 CHIEF OF THE LOCAL LAW ENFORCEMENT AGENCY FACTS:

36 (I) ESTABLISHING THE REASONABLE NECESSITY; AND

1 (II) DESIGNATING:

2 1. THE SPECIFIC PUBLIC PLACE AND THE POINTS OF ORIGIN
3 AND DESTINATION FOR THE MINOR'S TRAVEL; AND

4 2. THE TIMES THE MINOR WILL BE IN THE PUBLIC PLACE OR
5 TRAVELING TO OR FROM THE PUBLIC PLACE.

6 (F) (1) IF A LAW ENFORCEMENT OFFICER REASONABLY BELIEVES THAT A
7 MINOR IS IN A PUBLIC PLACE OR ON THE PREMISES OF AN ESTABLISHMENT IN
8 VIOLATION OF THE JUVENILE CURFEW ORDINANCE, THE OFFICER SHALL:

9 (I) NOTIFY THE MINOR THAT THE MINOR IS IN VIOLATION OF THE
10 JUVENILE CURFEW ORDINANCE;

11 (II) REQUIRE THE MINOR TO TELL THE OFFICER THE MINOR'S
12 NAME, ADDRESS, TELEPHONE NUMBER, AND WHERE TO CONTACT THE MINOR'S
13 PARENT OR GUARDIAN;

14 (III) ISSUE THE MINOR A WRITTEN WARNING THAT THE MINOR IS IN
15 VIOLATION OF THE JUVENILE CURFEW ORDINANCE; AND

16 (IV) ORDER THE MINOR TO PROMPTLY GO HOME.

17 (2) THE CHIEF OF THE LOCAL LAW ENFORCEMENT AGENCY SHALL
18 SEND WRITTEN NOTICE OF THE VIOLATION OF THE JUVENILE CURFEW ORDINANCE
19 TO THE MINOR'S PARENT OR GUARDIAN.

20 (G) THE LOCAL LAW ENFORCEMENT AGENCY MAY TAKE THE MINOR:

21 (1) TO THE MINOR'S HOME, IF APPROPRIATE; OR

22 (2) INTO CUSTODY AND TRANSPORT THE MINOR TO A LOCAL LAW
23 ENFORCEMENT STATION OR DESIGNATED CURFEW CENTER WHEN:

24 (I) THE MINOR HAS RECEIVED ONE PREVIOUS WRITTEN WARNING
25 FOR A VIOLATION OF THE JUVENILE CURFEW ORDINANCE;

26 (II) THE LOCAL LAW ENFORCEMENT OFFICER HAS REASONABLE
27 GROUNDS TO BELIEVE THAT THE MINOR HAS COMMITTED A DELINQUENT ACT; OR

28 (III) TAKING THE MINOR INTO CUSTODY IS AUTHORIZED UNDER §
29 3-814 OF THE COURTS ARTICLE.

30 (H) WHEN A MINOR IS TAKEN INTO CUSTODY FOR A VIOLATION OF THE
31 JUVENILE CURFEW ORDINANCE, THE LOCAL LAW ENFORCEMENT OFFICER SHALL:

32 (1) IMMEDIATELY NOTIFY THE PARENT OR GUARDIAN OF THE MINOR TO
33 COME TO THE LOCAL LAW ENFORCEMENT STATION TO TAKE CUSTODY OF THE
34 MINOR; AND

1 (2) DETERMINE WHETHER, CONSISTENT WITH CONSTITUTIONAL
 2 SAFEGUARDS, THE MINOR OR THE PARENT OR GUARDIAN, OR BOTH, ARE IN
 3 VIOLATION OF THE JUVENILE CURFEW ORDINANCE.

4 (I) (1) WHEN A PARENT OR GUARDIAN ARRIVES AT THE LOCAL LAW
 5 ENFORCEMENT STATION AS A RESULT OF SUBSECTION (H) OF THIS SECTION, AND
 6 THE APPROPRIATE INFORMATION IS RECORDED, THE MINOR SHALL BE RELEASED TO
 7 THE CUSTODY OF THE PARENT OR GUARDIAN.

8 (2) IF THE PARENT OR GUARDIAN CANNOT BE LOCATED OR FAILS TO
 9 TAKE CHARGE OF THE MINOR, THEN THE MINOR SHALL BE RELEASED TO THE LOCAL
 10 DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF JUVENILE JUSTICE, OR TO
 11 ANOTHER ADULT WHO WILL, ON BEHALF OF THE PARENT OR GUARDIAN, ASSUME
 12 THE RESPONSIBILITY OF CARING FOR THE MINOR PENDING THE AVAILABILITY OR
 13 ARRIVAL OF THE PARENT OR GUARDIAN.

14 ~~(J) (1) A PERSON WHO VIOLATES A JUVENILE CURFEW ORDINANCE IS~~
 15 ~~SUBJECT TO A FINE OF NOT MORE THAN \$500 FOR EACH VIOLATION.~~

16 ~~(2) A PERSON WHO VIOLATES A JUVENILE CURFEW ORDINANCE A~~
 17 ~~SECOND OR SUBSEQUENT TIME IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000~~
 18 ~~FOR EACH VIOLATION.~~

19 (J) (1) A LAW ENFORCEMENT OFFICER MAY ISSUE A CIVIL CITATION FOR A
 20 VIOLATION OF A JUVENILE CURFEW ORDINANCE TO:

21 (I) A MINOR;

22 (II) A PARENT OR GUARDIAN OF A MINOR; OR

23 (III) AN OWNER, OPERATOR, OR EMPLOYEE OF AN ESTABLISHMENT.

24 (2) THE CIVIL CITATION SHALL INCLUDE A FINE OF:

25 (I) NOT MORE THAN \$500 FOR A FIRST OFFENSE; OR

26 (II) NOT MORE THAN \$1,000 FOR A SECOND OR SUBSEQUENT
 27 OFFENSE.

28 Article - Courts and Judicial Proceedings

29 4-401.

30 Except as provided in § 4-402 of this subtitle, and subject to the venue provisions
 31 of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

32 (10) A proceeding for adjudication of:

33 (vi) A violation of an ordinance enacted:

