

---

By: **The President (By Request - Administration) and Senators Astle, Brinkley, Britt, Brochin, Colburn, Della, Forehand, Garagiola, Giannetti, Greenip, Grosfeld, Hafer, Haines, Harris, Hogan, Hollinger, Hooper, Hughes, Jacobs, Jimeno, Jones, Kasemeyer, Kelley, Kittleman, Klausmeier, Kramer, Lawlah, McFadden, Middleton, Mooney, Munson, Pipkin, Ruben, Schrader, Stoltzfus, Stone, and Teitelbaum**

Introduced and read first time: January 21, 2005  
Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes and Criminal Procedure - Victim and Witness Intimidation**

3 FOR the purpose of prohibiting a person from harming another, threatening to harm  
4 another, or damaging or destroying property with the intent to induce a victim  
5 or witness not to report the existence of facts relating to a crime or delinquent  
6 act; prohibiting solicitation of another person to harm another, threaten to harm  
7 another, or damage or destroy property with the intent to induce a victim or  
8 witness not to report the existence of facts relating to a crime or delinquent act;  
9 prohibiting a person from threatening to harm another with the intent of  
10 retaliating against a victim or witness for giving testimony in an official  
11 proceeding or reporting a crime or delinquent act; prohibiting a person from  
12 soliciting another person to harm another, threaten to harm another, or damage  
13 or destroy property with the intent of retaliating against a victim or witness for  
14 giving testimony in an official proceeding or reporting a crime or delinquent act;  
15 prohibiting a person, by threat, force, or corrupt means, from trying to influence,  
16 intimidate, or impede an officer of a court of the United States in the  
17 performance of the person's official duties; prohibiting a person from soliciting  
18 another person to, by threat, force, or corrupt means, try to influence,  
19 intimidate, or impede a juror, a witness, or an officer of a court of the State or of  
20 the United States in the performance of the person's official duties; increasing  
21 certain penalties; providing that if the testimony, subpoena, official proceeding,  
22 or report involving a victim or witness relates to a felony, a person who violates  
23 certain provisions of this Act is guilty of a felony and on conviction is subject to  
24 a certain term of imprisonment; providing that certain sentences imposed under  
25 certain provisions of this Act may be separate from and consecutive to or  
26 concurrent with a sentence for certain other crimes; providing that certain  
27 statements made by certain victims or witnesses are not excluded in a judicial  
28 proceeding by the hearsay rule under certain circumstances; and generally  
29 relating to crimes against victims and witnesses.

30 BY repealing and reenacting, without amendments,

1 Article - Criminal Law  
2 Section 9-301(c) and (d)  
3 Annotated Code of Maryland  
4 (2002 Volume and 2004 Supplement)

5 BY repealing and reenacting, with amendments,  
6 Article - Criminal Law  
7 Section 9-302, 9-303, and 9-305  
8 Annotated Code of Maryland  
9 (2002 Volume and 2004 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article - Courts and Judicial Proceedings  
12 Section 3-8A-03(d)(4)(xvi) and (xvii)  
13 Annotated Code of Maryland  
14 (2002 Replacement Volume and 2004 Supplement)

15 BY adding to  
16 Article - Courts and Judicial Proceedings  
17 Section 3-8A-03(d)(4)(xviii) and 10-901  
18 Annotated Code of Maryland  
19 (2002 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article - Criminal Procedure  
22 Section 4-202(b)  
23 Annotated Code of Maryland  
24 (2001 Volume and 2004 Supplement)

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

27 **Article - Criminal Law**

28 9-301.

29 (c) "Victim" means a person against whom a crime or delinquent act has been  
30 committed or attempted.

31 (d) "Witness" means a person who:

32 (1) has knowledge of the existence of facts relating to a crime or  
33 delinquent act;

34 (2) makes a declaration under oath that is received as evidence for any  
35 purpose;

1 (3) has reported a crime or delinquent act to a law enforcement officer,  
2 prosecutor, intake officer, correctional officer, or judicial officer; or

3 (4) has been served with a subpoena issued under the authority of a  
4 court of this State, any other state, or the United States.

5 9-302.

6 (a) A person may not harm another, threaten to harm another, or damage or  
7 destroy property with the intent to:

8 (1) influence a victim or witness to testify falsely or withhold testimony;  
9 or

10 (2) induce a victim or witness:

11 (i) to avoid the service of a subpoena or summons to testify; [or]

12 (ii) to be absent from an official proceeding to which the victim or  
13 witness has been subpoenaed or summoned; OR

14 (III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A  
15 CRIME OR DELINQUENT ACT.

16 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO HARM ANOTHER,  
17 THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY WITH THE  
18 INTENT TO:

19 (1) INFLUENCE A VICTIM OR WITNESS TO TESTIFY FALSELY OR  
20 WITHHOLD TESTIMONY; OR

21 (2) INDUCE A VICTIM OR WITNESS:

22 (I) TO AVOID THE SERVICE OF A SUBPOENA OR SUMMONS TO  
23 TESTIFY;

24 (II) TO BE ABSENT FROM AN OFFICIAL PROCEEDING TO WHICH  
25 THE VICTIM OR WITNESS HAS BEEN SUBPOENAED OR SUMMONED; OR

26 (III) NOT TO REPORT THE EXISTENCE OF FACTS RELATING TO A  
27 CRIME OR DELINQUENT ACT.

28 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
29 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on  
30 conviction is subject to imprisonment not exceeding 5 years OR A FINE NOT  
31 EXCEEDING \$5,000 OR BOTH.

32 (2) IF THE TESTIMONY, SUBPOENA, OFFICIAL PROCEEDING, OR REPORT  
33 INVOLVING THE VICTIM OR WITNESS RELATES TO A FELONY, INCLUDING AN  
34 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT A FELONY, A PERSON WHO

1 VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT  
2 TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

3 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM  
4 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED  
5 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

6 9-303.

7 (a) A person may not intentionally harm another, THREATEN TO HARM  
8 ANOTHER, or damage or destroy property with the intent of retaliating against a  
9 victim or witness for:

10 (1) giving testimony in an official proceeding; or

11 (2) reporting a crime or delinquent act.

12 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO INTENTIONALLY HARM  
13 ANOTHER, THREATEN TO HARM ANOTHER, OR DAMAGE OR DESTROY PROPERTY  
14 WITH THE INTENT OF RETALIATING AGAINST A VICTIM OR WITNESS FOR:

15 (1) GIVING TESTIMONY IN AN OFFICIAL PROCEEDING; OR

16 (2) REPORTING A CRIME OR DELINQUENT ACT.

17 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
18 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on  
19 conviction is subject to imprisonment not exceeding 5 years OR A FINE NOT  
20 EXCEEDING \$5,000 OR BOTH.

21 (2) IF THE OFFICIAL PROCEEDING OR REPORT DESCRIBED IN  
22 SUBSECTION (A) OF THIS SECTION RELATES TO A FELONY OR A DELINQUENT ACT  
23 BASED ON A FELONY, INCLUDING AN ATTEMPT, CONSPIRACY, OR SOLICITATION TO  
24 COMMIT A FELONY, A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY  
25 AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

26 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM  
27 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED  
28 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

29 9-305.

30 (a) A person may not, by threat, force, or corrupt means, try to influence,  
31 intimidate, or impede a juror, a witness, or an officer of a court of the State OR OF THE  
32 UNITED STATES in the performance of the person's official duties.

33 (B) A PERSON MAY NOT SOLICIT ANOTHER PERSON TO, BY THREAT, FORCE, OR  
34 CORRUPT MEANS, TRY TO INFLUENCE, INTIMIDATE, OR IMPEDE A JUROR, A WITNESS,  
35 OR AN OFFICER OF THE COURT OF THE STATE OR OF THE UNITED STATES IN THE  
36 PERFORMANCE OF THE PERSON'S OFFICIAL DUTIES.

1 [(b)] (C) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS  
2 SUBSECTION, A person who violates this section is guilty of a misdemeanor and on  
3 conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding  
4 [\$10,000] \$5,000 or both.

5 (2) IF AN ACT DESCRIBED IN SUBSECTION (A) OF THIS SECTION IS  
6 TAKEN IN CONNECTION WITH A PROCEEDING INVOLVING A FELONY, INCLUDING AN  
7 ATTEMPT, CONSPIRACY, OR SOLICITATION TO COMMIT A FELONY, A PERSON WHO  
8 VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT  
9 TO IMPRISONMENT NOT EXCEEDING 20 YEARS.

10 (D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM  
11 AND CONSECUTIVE TO OR CONCURRENT WITH A SENTENCE FOR ANY CRIME BASED  
12 ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

13 **Article - Courts and Judicial Proceedings**

14 3-8A-03.

15 (d) The court does not have jurisdiction over:

16 (4) A child at least 16 years old alleged to have committed any of the  
17 following crimes, as well as all other charges against the child arising out of the same  
18 incident, unless an order removing the proceeding to the court has been filed under §  
19 4-202 of the Criminal Procedure Article:

20 (xvi) Attempted robbery under § 3-403 of the Criminal Law Article;  
21 [or]

22 (xvii) A violation of § 4-203, § 4-204, § 4-404, or § 4-405 of the  
23 Criminal Law Article; OR

24 (XVIII) A VIOLATION OF § 9-302, § 9-303, OR § 9-305 OF THE CRIMINAL  
25 LAW ARTICLE;

26 10-901.

27 (A) A STATEMENT AS DEFINED IN MARYLAND RULE 5-801(A) IS NOT  
28 EXCLUDED BY THE HEARSAY RULE IF THE STATEMENT IS OFFERED AGAINST A  
29 PARTY THAT HAS ENGAGED OR ACQUIESCED IN WRONGDOING THAT WAS INTENDED  
30 TO AND DID PROCURE THE UNAVAILABILITY OF THE WITNESS AS DEFINED IN  
31 MARYLAND RULE 5-804 WHO WAS THE DECLARANT OF THE STATEMENT.

32 (B) THE COURT SHALL DETERMINE THE ADMISSIBILITY OF A STATEMENT  
33 UNDER THIS SECTION IN THE MANNER PROVIDED IN THE MARYLAND RULES.

34 (C) A STATEMENT MAY NOT BE ADMITTED UNDER THIS SECTION UNLESS, AS  
35 SOON AS IS PRACTICABLE AFTER THE PROPONENT OF THE STATEMENT LEARNS  
36 THAT THE DECLARANT WILL BE UNAVAILABLE, THE PROPONENT MAKES KNOWN TO

1 THE ADVERSE PARTY THE INTENTION TO OFFER THE STATEMENT AND THE  
2 PARTICULARS OF IT.

3

**Article - Criminal Procedure**

4 4-202.

5 (b) Except as provided in subsection (c) of this section, a court exercising  
6 criminal jurisdiction in a case involving a child may transfer the case to the juvenile  
7 court before trial or before a plea is entered under Maryland Rule 4-242 if:

8 (1) the accused child was at least 14 but not 18 years of age when the  
9 alleged crime was committed;

10 (2) the alleged crime is excluded from the jurisdiction of the juvenile  
11 court under § 3-8A-03(d)(1), (4), or (5) of the Courts Article; and

12 (3) the court determines by a preponderance of the evidence that a  
13 transfer of its jurisdiction is in the interest of the child or society.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take  
15 effect October 1, 2005.