

# HOUSE BILL 587

E3, E1

71r2369

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By: **Delegates McDonough and Impallaria**  
Introduced and read first time: February 8, 2007  
Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Gang Activity – Jurisdiction over Juvenile Offenders**

3 FOR the purpose of excluding from the jurisdiction of juvenile court certain juvenile  
4 offenders who commit acts that would be crimes if committed by adults that the  
5 juvenile committed as a member of a criminal gang; and generally relating to  
6 the jurisdiction of the court over a juvenile offender involved in criminal gang  
7 activity.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 3–8A–03(d)  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume)

13 BY repealing and reenacting, without amendments,  
14 Article – Criminal Law  
15 Section 9–801(a) and (c)  
16 Annotated Code of Maryland  
17 (2002 Volume and 2006 Supplement)

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

20 **Article – Courts and Judicial Proceedings**

21 3–8A–03.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

2 (1) A child at least 14 years old alleged to have done an act which, if  
3 committed by an adult, would be a crime punishable by death or life imprisonment, as  
4 well as all other charges against the child arising out of the same incident, unless an  
5 order removing the proceeding to the court has been filed under § 4–202 of the  
6 Criminal Procedure Article;

7 (2) A child at least 16 years old alleged to have done an act in violation  
8 of any provision of the Transportation Article or other traffic law or ordinance, except  
9 an act that prescribes a penalty of incarceration;

10 (3) A child at least 16 years old alleged to have done an act in violation  
11 of any provision of law, rule, or regulation governing the use or operation of a boat,  
12 except an act that prescribes a penalty of incarceration;

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

17 (i) Abduction;

18 (ii) Kidnapping;

19 (iii) Second degree murder;

20 (iv) Manslaughter, except involuntary manslaughter;

21 (v) Second degree rape;

22 (vi) Robbery under § 3–403 of the Criminal Law Article;

23 (vii) Second degree sexual offense under § 3–306(a)(1) of the  
24 Criminal Law Article;

25 (viii) Third degree sexual offense under § 3–307(a)(1) of the  
26 Criminal Law Article;

27 (ix) A crime in violation of § 5–133, § 5–134, § 5–138, or § 5–203  
28 of the Public Safety Article;

1 (x) Using, wearing, carrying, or transporting a firearm during  
2 and in relation to a drug trafficking crime under § 5-621 of the Criminal Law Article;

3 (xi) Use of a firearm under § 5-622 of the Criminal Law Article;

4 (xii) Carjacking or armed carjacking under § 3-405 of the  
5 Criminal Law Article;

6 (xiii) Assault in the first degree under § 3-202 of the Criminal  
7 Law Article;

8 (xiv) Attempted murder in the second degree under § 2-206 of the  
9 Criminal Law Article;

10 (xv) Attempted rape in the second degree under § 3-310 of the  
11 Criminal Law Article or attempted sexual offense in the second degree under § 3-312  
12 of the Criminal Law Article;

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

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

17 **(XVIII) AN ACT THAT WOULD BE A CRIME IF COMMITTED**  
18 **BY AN ADULT THAT THE CHILD COMMITTED AS A MEMBER OF A CRIMINAL GANG,**  
19 **AS DEFINED IN § 9-801 OF THE CRIMINAL LAW ARTICLE;**

20 (5) A child who previously has been convicted as an adult of a felony  
21 and is subsequently alleged to have committed an act that would be a felony if  
22 committed by an adult, unless an order removing the proceeding to the court has been  
23 filed under § 4-202 of the Criminal Procedure Article; or

24 (6) A peace order proceeding in which the victim, as defined in §  
25 3-8A-01(cc)(1)(ii) of this subtitle, is a person eligible for relief, as defined in § 4-501 of  
26 the Family Law Article.

## 27 **Article - Criminal Law**

28 9-801.

29 (a) In this subtitle the following words have the meanings indicated.

1           (c)    “Criminal gang” means a group or any association of three or more  
2 persons:

3                   (1)   that forms to engage in criminal activity, including acts by  
4 juveniles that would be crimes if committed by adults, for the purposes of pecuniary  
5 gain or to create an atmosphere of fear and intimidation either collectively or with  
6 knowledge of the acts of the members of the group; and

7                   (2)   whose members have a common identifying sign, symbol, or name.

8           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 2007.