

HOUSE BILL 478

E1

3lr2432
CF SB 861

By: **Delegate Simmons**

Introduced and read first time: January 30, 2013

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 2013

CHAPTER _____

1 AN ACT concerning

2 **Crimes – Committing a Crime of Violence in the Presence of a Minor –**
3 **Penalties**

4 FOR the purpose of prohibiting a person from committing a certain crime of violence
5 when the person knows or reasonably should know that a minor of a certain age
6 is present in a residence; establishing certain circumstances under which a
7 minor is present; establishing a certain enhanced penalty for a violation of this
8 Act; authorizing a court to impose an enhanced penalty if the State's Attorney
9 provides certain notice to the defendant in a certain manner and if certain
10 elements have been proven beyond a reasonable doubt; authorizing the State to
11 include a certain notice in a certain indictment or information; ~~providing that a~~
12 ~~person who violates this Act is guilty of the abuse of a child under 18 for certain~~
13 ~~purposes; providing that a penalty imposed under this Act shall be separate~~
14 ~~from and consecutive to a sentence for any crime based on the act establishing~~
15 ~~the violation of this Act;~~ and generally relating to the commission of crimes of
16 violence in the presence of minors.

17 BY repealing and reenacting, without amendments,
18 Article – Courts and Judicial Proceedings
19 Section 9–106(a)
20 Annotated Code of Maryland
21 (2006 Replacement Volume and 2012 Supplement)

22 BY adding to
23 Article – Criminal Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 3-601.1
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2012 Supplement)

4 BY repealing and reenacting, without amendments,
5 Article – Public Safety
6 Section 5-101(a) and (c)
7 Annotated Code of Maryland
8 (2011 Replacement Volume and 2012 Supplement)

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

11 **Article – Courts and Judicial Proceedings**

12 9-106.

13 (a) The spouse of a person on trial for a crime may not be compelled to testify
14 as an adverse witness unless the charge involves:

15 (1) The abuse of a child under 18; or

16 (2) Assault in any degree in which the spouse is a victim if:

17 (i) The person on trial was previously charged with assault in
18 any degree or assault and battery of the spouse;

19 (ii) The spouse was sworn to testify at the previous trial; and

20 (iii) The spouse refused to testify at the previous trial on the
21 basis of the provisions of this section.

22 **Article – Criminal Law**

23 **3-601.1.**

24 (A) (1) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS
25 DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE WHEN THE PERSON
26 KNOWS OR REASONABLY SHOULD KNOW THAT A MINOR WHO IS AT LEAST 2
27 YEARS OLD ~~AND UNDER THE AGE OF 16 YEARS~~ IS PRESENT IN A RESIDENCE.

28 (2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION,
29 A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE
30 CRIME OF VIOLENCE.

1 (B) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO
2 IMPRISONMENT NOT EXCEEDING 5 YEARS IN ADDITION TO ANY OTHER
3 SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE.

4 (C) A COURT MAY IMPOSE AN ENHANCED PENALTY UNDER SUBSECTION
5 (B) OF THIS SECTION IF:

6 (1) AT LEAST 30 DAYS BEFORE TRIAL IN THE CIRCUIT COURT,
7 AND 15 DAYS BEFORE TRIAL IN THE DISTRICT COURT, THE STATE'S ATTORNEY
8 NOTIFIES THE DEFENDANT IN WRITING OF THE STATE'S INTENTION TO SEEK
9 THE ENHANCED PENALTY; AND

10 (2) THE ELEMENTS OF SUBSECTION (A)(1) OF THIS SECTION HAVE
11 BEEN PROVEN BEYOND A REASONABLE DOUBT.

12 (D) IF THE DEFENDANT IS CHARGED BY INDICTMENT OR CRIMINAL
13 INFORMATION, THE STATE MAY INCLUDE THE NOTICE REQUIRED UNDER
14 SUBSECTION (C)(1) OF THIS SECTION IN THE INDICTMENT OR INFORMATION.

15 (E) AN ENHANCED PENALTY IMPOSED UNDER THIS SECTION SHALL BE
16 SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON
17 THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

18 ~~(E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE ABUSE~~
19 ~~OF A CHILD UNDER 18 FOR THE PURPOSES OF § 9-106 OF THE COURTS~~
20 ~~ARTICLE.~~

21 Article – Public Safety

22 5–101.

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

24 (c) “Crime of violence” means:

25 (1) abduction;

26 (2) arson in the first degree;

27 (3) assault in the first or second degree;

28 (4) burglary in the first, second, or third degree;

29 (5) carjacking and armed carjacking;

- 1 (6) escape in the first degree;
- 2 (7) kidnapping;
- 3 (8) voluntary manslaughter;
- 4 (9) maiming as previously proscribed under former Article 27, § 386 of
- 5 the Code;
- 6 (10) mayhem as previously proscribed under former Article 27, § 384 of
- 7 the Code;
- 8 (11) murder in the first or second degree;
- 9 (12) rape in the first or second degree;
- 10 (13) robbery;
- 11 (14) robbery with a dangerous weapon;
- 12 (15) sexual offense in the first, second, or third degree;
- 13 (16) an attempt to commit any of the crimes listed in items (1) through
- 14 (15) of this subsection; or
- 15 (17) assault with intent to commit any of the crimes listed in items (1)
- 16 through (15) of this subsection or a crime punishable by imprisonment for more than 1
- 17 year.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

19 October 1, 2013.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.