HOUSE BILL 478

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By: Delegate Simmons

Introduced and read first time: January 30, 2013

Assigned to: Judiciary

A BILL ENTITLED

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 7	is present in a residence; establishing certain circumstances under which a 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; and generally relating to the commission of crimes of violence in the				
14	presence of minors.				
15	BY repealing and reenacting, without amendments,				
16	Article – Courts and Judicial Proceedings				
17	Section 9–106(a)				
18	Annotated Code of Maryland				
19	(2006 Replacement Volume and 2012 Supplement)				
20	BY adding to				
21	Article – Criminal Law				
22	Section 3–601.1				
23	Annotated Code of Maryland				
24	(2012 Replacement Volume and 2012 Supplement)				
25	BY repealing and reenacting, without amendments,				
26	Article – Public Safety				
27	Section 5–101(a) and (c)				
28	Annotated Code of Maryland				

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1	(2011 Replacement Volume and 2012 Supplement)					
2 3	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:					
4	Article - Courts and Judicial Proceedings					
5	9–106.					
6 7	(a) The spouse of a person on trial for a crime may not be compelled to testify as an adverse witness unless the charge involves:					
8	(1) The abuse of a child under 18; or					
9	(2) Assault in any degree in which the spouse is a victim if:					
10 11	(i) The person on trial was previously charged with assault is any degree or assault and battery of the spouse;					
12	(ii) The spouse was sworn to testify at the previous trial; and					
13 14	(iii) The spouse refused to testify at the previous trial on the basis of the provisions of this section.					
15	Article - Criminal Law					
16	3-601.1.					
17 18 19 20	(A) (1) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE WHEN THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT A MINOR WHO IS AT LEAST 2 YEARS OLD AND UNDER THE AGE OF 16 YEARS IS PRESENT IN A RESIDENCE.					
21 22 23	(2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE CRIME OF VIOLENCE.					
24 25 26	(B) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE.					
27 28	(C) A COURT MAY IMPOSE AN ENHANCED PENALTY UNDER SUBSECTION (B) OF THIS SECTION IF:					

1 2 3	(1) AT LEAST 30 DAYS BEFORE TRIAL THE STATE'S ATTORNEY NOTIFIES THE DEFENDANT IN WRITING OF THE STATE'S INTENTION TO SEEK THE ENHANCED PENALTY; AND						
4 5	(2) THE ELEMENTS OF SUBSECTION (A)(1) OF THIS SECTION HAVE BEEN PROVEN BEYOND A REASONABLE DOUBT.						
6 7 8	(D) IF THE DEFENDANT IS CHARGED BY INDICTMENT OR CRIMINAL INFORMATION, THE STATE MAY INCLUDE THE NOTICE REQUIRED UNDER SUBSECTION (C)(1) OF THIS SECTION IN THE INDICTMENT OR INFORMATION.						
9 10 11	(E) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE ABUSE OF A CHILD UNDER 18 FOR THE PURPOSES OF § 9–106 OF THE COURTS ARTICLE.						
12			Article - Public Safety				
13	5–101.						
14	(a)	In th	is subtitle the following words have the meanings indicated.				
15	(c)	"Crin	ne of violence" means:				
16		(1)	abduction;				
17		(2)	arson in the first degree;				
18		(3)	assault in the first or second degree;				
19		(4)	burglary in the first, second, or third degree;				
20		(5)	carjacking and armed carjacking;				
21		(6)	escape in the first degree;				
22		(7)	kidnapping;				
23		(8)	voluntary manslaughter;				
24 25	the Code;	(9)	maiming as previously proscribed under former Article 27, § 386 of				
26 27	the Code;	(10)	mayhem as previously proscribed under former Article 27, § 384 of				
28		(11)	murder in the first or second degree;				

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1	(12)	rape in the first or second degree;
2	(13)	robbery;
3	(14)	robbery with a dangerous weapon;
4	(15)	sexual offense in the first, second, or third degree;
5 6	(16) (15) of this subsect	an attempt to commit any of the crimes listed in items (1) through tion; or
7 8 9	(17) through (15) of thi year.	assault with intent to commit any of the crimes listed in items (1) s subsection or a crime punishable by imprisonment for more than 1
10 11	SECTION 2 October 1, 2013.	2. AND BE IT FURTHER ENACTED, That this Act shall take effect