SENATE BILL 861

By: Senator Zirkin <u>Senators Zirkin and Forehand</u>				
Introduced and read first time: February 7, 2013				
Assigned to: Rules				
Re-referred to: Judicial Proceedings, February 14, 2013				
Committee Report: Favorable with amendments				
Senate action: Adopted				
Read second time: March 24, 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 $\mathbf{5}$ 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 7minor 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 person who violates this Act is guilty of the abuse of a child under 18 for certain 12purposes; and generally relating to the commission of crimes of violence in the 13 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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

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



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$\frac{1}{2}$	Annotated Code of Maryland (2012 Replacement Volume and 2012 Supplement)					
$3 \\ 4 \\ 5 \\ 6 \\ 7$	BY repealing and reenacting, without amendments, Article – Public Safety Section 5–101(a) and (c) Annotated Code of Maryland (2011 Replacement Volume and 2012 Supplement)					
8 9	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:					
10	Article – Courts and Judicial Proceedings					
11	9–106.					
$\begin{array}{c} 12\\ 13 \end{array}$	(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:					
14	(1) The abuse of a child under 18; or					
15	(2) Assault in any degree in which the spouse is a victim if:					
$\begin{array}{c} 16 \\ 17 \end{array}$	(i) The person on trial was previously charged with assault in any degree or assault and battery of the spouse;					
18	(ii) The spouse was sworn to testify at the previous trial; and					
19 20	(iii) The spouse refused to testify at the previous trial on the basis of the provisions of this section.					
21	Article – Criminal Law					
22	3-601.1.					
23 24 25 26	(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.					
$\begin{array}{c} 27\\ 28 \end{array}$	(2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE					

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CRIME OF VIOLENCE.

$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$		A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO IENT NOT EXCEEDING 5 YEARS IN ADDITION TO ANY OTHER IMPOSED FOR THE CRIME OF VIOLENCE.					
4 5	(C) A COURT MAY IMPOSE AN ENHANCED PENALTY UNDER SUBSECTION (B) OF THIS SECTION IF:						
6 7 8	(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						
9 10	(2) THE ELEMENTS OF SUBSECTION (A)(1) OF THIS SECTION HAVE BEEN PROVEN BEYOND A REASONABLE DOUBT.						
$\begin{array}{c} 11\\ 12\\ 13 \end{array}$		IF THE DEFENDANT IS CHARGED BY INDICTMENT OR CRIMINAL ON, THE STATE MAY INCLUDE THE NOTICE REQUIRED UNDER N (C)(1) OF THIS SECTION IN THE INDICTMENT OR INFORMATION.					
$\begin{array}{c} 14\\ 15\\ 16\end{array}$	(E) OF A CHIL Article.	A person who violates this section is guilty of the abuse ad under 18 for the purposes of § 9–106 of the Courts					
17		Article – Public Safety					
17 18	5–101.	Article – Public Safety					
	5–101. (a)	Article – Public Safety In this subtitle the following words have the meanings indicated.					
18							
18 19	(a)	In this subtitle the following words have the meanings indicated.					
18 19 20	(a)	In this subtitle the following words have the meanings indicated. "Crime of violence" means:					
18 19 20 21	(a)	 In this subtitle the following words have the meanings indicated. "Crime of violence" means: (1) abduction; 					
 18 19 20 21 22 	(a)	 In this subtitle the following words have the meanings indicated. "Crime of violence" means: (1) abduction; (2) arson in the first degree; 					
 18 19 20 21 22 23 	(a)	 In this subtitle the following words have the meanings indicated. "Crime of violence" means: (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; 					
 18 19 20 21 22 23 24 	(a)	 In this subtitle the following words have the meanings indicated. "Crime of violence" means: (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; 					
 18 19 20 21 22 23 24 25 	(a)	 In this subtitle the following words have the meanings indicated. "Crime of violence" means: (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; 					

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$\frac{1}{2}$	the Code;	(9)	maiming as previously proscribed under former Article 27, § 386 of		
$\frac{3}{4}$	the Code;	(10)	mayhem as previously proscribed under former Article 27, § 384 of		
5		(11)	murder in the first or second degree;		
6		(12)	rape in the first or second degree;		
7		(13)	robbery;		
8		(14)	robbery with a dangerous weapon;		
9		(15)	sexual offense in the first, second, or third degree;		
10 11	(15) of this s	(16) subsect	an attempt to commit any of the crimes listed in items (1) through tion; or		
$12 \\ 13 \\ 14$	through (15) year.	(17)) of thi	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		
$\begin{array}{c} 15\\ 16\end{array}$	SECT October 1, 2		2. AND BE IT FURTHER ENACTED, That this Act shall take effect		

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.