HOUSE BILL 807

E1 4lr1101
HB 940/13 – JUD CF SB 742

By: **Delegates Lee, Clippinger, Cullison, DeBoy, Gutierrez, Healey, Howard, A. Kelly, McComas, McDonough, McMillan, B. Robinson, S. Robinson, and Stocksdale**

Introduced and read first time: February 3, 2014
Assigned to: Judiciary

A BILL ENTITLED

AN ACT concerning

Criminal Law – Home Invasion and Armed Home Invasion

FOR the purpose of prohibiting a person from breaking and entering the dwelling of another and committing a crime of violence against a person in the dwelling; prohibiting a person from employing or displaying a dangerous weapon during the commission of a home invasion; establishing a unit of prosecution for a certain violation; establishing certain criminal penalties; authorizing a sentence imposed under this Act to be separate from and consecutive to a sentence for any other crime that arises from the conduct underlying the home invasion or armed home invasion; defining certain terms; altering a certain definition; and generally relating to the prohibition against home invasion.

BY adding to
Article – Criminal Law
Section 3–1001 and 3–1002 to be under the new subtitle "Subtitle 10. Home Invasion"
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

BY repealing and reenacting, with amendments,
Article – Criminal Law
Section 14–101(a)
Annotated Code of Maryland
(2012 Replacement Volume and 2013 Supplement)

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

Article – Criminal Law

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets**]** indicate matter deleted from existing law.

SUBTITLE 10. HOME INVASION.

3–1001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "BREAK" RETAINS ITS JUDICIALLY DETERMINED MEANING EXCEPT TO THE EXTENT THAT ITS MEANING IS EXPRESSLY OR IMPLIEDLY CHANGED IN THIS SUBTITLE.

(C) "CRIME OF VIOLENCE" HAS THE MEANING STATED IN § 14–101 OF THIS ARTICLE.

(D) "DWELLING" RETAINS ITS JUDICIALLY DETERMINED MEANING EXCEPT TO THE EXTENT THAT ITS MEANING IS EXPRESSLY OR IMPLIEDLY CHANGED IN THIS SUBTITLE.

(E) "ENTER" RETAINS ITS JUDICIALLY DETERMINED MEANING EXCEPT TO THE EXTENT THAT ITS MEANING IS EXPRESSLY OR IMPLIEDLY CHANGED IN THIS SUBTITLE.

3–1002.

(A) A PERSON MAY NOT:

(1) BREAK AND ENTER THE DWELLING OF ANOTHER IF THE PERSON KNOWS OR HAS REASON TO KNOW THAT ONE OR MORE OTHER PERSONS ARE PRESENT IN THE DWELLING; AND

(2) COMMIT A CRIME OF VIOLENCE AGAINST A PERSON IN THE DWELLING.

(B) A PERSON MAY NOT EMPLOY OR DISPLAY A DANGEROUS WEAPON DURING THE COMMISSION OF A HOME INVASION UNDER SUBSECTION (A) OF THIS SECTION.

(C) THE UNIT OF PROSECUTION FOR A VIOLATION OF THIS SECTION IS BASED ON THE NUMBER OF PERSONS IN THE DWELLING AT THE TIME OF THE HOME INVASION.

(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.

(E) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR ANY OTHER CRIME THAT ARISES FROM THE CONDUCT UNDERLYING THE HOME INVASION VIOLENT CRIME OR ARMED HOME INVASION VIOLENT CRIME.

14–101.

(a) In this section, "crime of violence" means:

(1) abduction;

(2) arson in the first degree;

(3) kidnapping;

(4) manslaughter, except involuntary manslaughter;

(5) mayhem;

(6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;

(7) murder;

(8) rape;

(9) robbery under § 3–402 or § 3–403 of this article;

(10) carjacking;

(11) armed carjacking;

(12) sexual offense in the first degree;

(13) sexual offense in the second degree;

(14) use of a handgun in the commission of a felony or other crime of violence;

(15) child abuse in the first degree under § 3–601 of this article;

(16) sexual abuse of a minor under § 3–602 of this article if:

(i) the victim is under the age of 13 years and the offender is an adult at the time of the offense; and

(ii) the offense involved:

1. vaginal intercourse, as defined in § 3–301 of this article;

2. a sexual act, as defined in § 3–301 of this article;

3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or

4. the intentional touching, not through the clothing, of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

(17) an attempt to commit any of the crimes described in items (1) through (16) of this subsection;

(18) continuing course of conduct with a child under § 3–315 of this article;

(19) assault in the first degree;

(20) assault with intent to murder;

(21) assault with intent to rape;

(22) assault with intent to rob;

(23) HOME INVASION UNDER § 3–1002(A) OF THIS ARTICLE;

(24) ARMED HOME INVASION UNDER § 3–1002(B) OF THIS ARTICLE;

[(23)**] (25)** assault with intent to commit a sexual offense in the first degree; and

[(24)**] (26)** assault with intent to commit a sexual offense in the second degree.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.