

# HOUSE BILL 359

E1, D4

71r0869

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By: Delegates Angel, Anderson, Bromwell, Carr, Davis, Dumais, Gutierrez, Hettleman, Hill, C. Howard, Korman, Lierman, Luedtke, Malone, McCray, McIntosh, Moon, Oaks, Pena-Melnyk, Queen, Sydnor, M. Washington, C. Wilson, and R. Lewis

Introduced and read first time: January 25, 2017

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2017

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 ~~Child Neglect – Reporting – Commission of Crime of Violence in Presence of~~  
3 ~~Minor~~  
4 Family Law – Child Abuse and Neglect – Mental Injury

5 FOR the purpose of altering the ~~definition of “neglect” in certain provisions of law governing~~  
6 ~~the reporting and investigation of suspected child abuse or neglect; establishing that~~  
7 ~~neglect includes an act that would constitute a violation of a provision that prohibits~~  
8 ~~a person from committing a crime of violence when the person knows or reasonably~~  
9 ~~should know that a minor of a certain age is present in a residence; and generally~~  
10 ~~relating to the commission of a crime of violence in the presence of a minor and child~~  
11 ~~neglect~~ definition of “mental injury” for the purpose of certain child abuse and neglect  
12 statutes; and generally relating to child abuse and neglect.

13 ~~BY repealing and reenacting, without amendments,~~  
14 ~~Article – Criminal Law~~  
15 ~~Section 3 – 601.1~~  
16 ~~Annotated Code of Maryland~~  
17 ~~(2012 Replacement Volume and 2016 Supplement)~~

18 ~~BY repealing and reenacting, with amendments,~~  
19 ~~Article – Family Law~~  
20 ~~Section 5 – 701(e)~~

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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 ~~Annotated Code of Maryland~~  
 2 ~~(2012 Replacement Volume and 2016 Supplement)~~

3 ~~BY repealing and reenacting, without amendments,~~  
 4 ~~Article – Family Law~~  
 5 ~~Section 5–704~~  
 6 ~~Annotated Code of Maryland~~  
 7 ~~(2012 Replacement Volume and 2016 Supplement)~~

8 BY repealing and reenacting, without amendments,  
 9 Article – Family Law  
 10 Section 5–701(b)  
 11 Annotated Code of Maryland  
 12 (2012 Replacement Volume and 2016 Supplement)

13 BY repealing and reenacting, with amendments,  
 14 Article – Family Law  
 15 Section 5–701(r)  
 16 Annotated Code of Maryland  
 17 (2012 Replacement Volume and 2016 Supplement)

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

20 ~~Article – Criminal Law~~

21 ~~§ 601.1.~~

22 ~~(a) (1) A person may not commit a crime of violence as defined in § 5–101 of~~  
 23 ~~the Public Safety Article when the person knows or reasonably should know that a minor~~  
 24 ~~who is at least 2 years old is present in a residence.~~

25 ~~(2) For the purposes of paragraph (1) of this subsection, a minor is present~~  
 26 ~~if the minor is within sight or hearing of the crime of violence.~~

27 ~~(b) A person who violates this section is subject to imprisonment not exceeding 5~~  
 28 ~~years in addition to any other sentence imposed for the crime of violence.~~

29 ~~(c) A court may impose an enhanced penalty under subsection (b) of this section~~  
 30 ~~if:~~

31 ~~(1) at least 30 days before trial in the circuit court, and 15 days before trial~~  
 32 ~~in the District Court, the State's Attorney notifies the defendant in writing of the State's~~  
 33 ~~intention to seek the enhanced penalty; and~~

34 ~~(2) the elements of subsection (a)(1) of this section have been proven~~  
 35 ~~beyond a reasonable doubt.~~

1 ~~(d) If the defendant is charged by indictment or criminal information, the State~~  
 2 ~~may include the notice required under subsection (c)(1) of this section in the indictment or~~  
 3 ~~information.~~

4 ~~(e) An enhanced penalty imposed under this section shall be separate from and~~  
 5 ~~consecutive to a sentence for any crime based on the act establishing the violation of this~~  
 6 ~~section.~~

7 ~~Article — Family Law~~

8 ~~5-701.~~

9 ~~(s) “Neglect” means:~~

10 ~~(1) the leaving of a child unattended or other failure to give proper care and~~  
 11 ~~attention to a child by any parent or other person who has permanent or temporary care or~~  
 12 ~~custody or responsibility for supervision of the child under circumstances that indicate:~~

13 ~~[(1)] (I) that the child’s health or welfare is harmed or placed at~~  
 14 ~~substantial risk of harm; or~~

15 ~~[(2)] (II) mental injury to the child or a substantial risk of mental injury;~~

16 ~~OR~~

17 ~~(2) AN ACT THAT CONSTITUTES A VIOLATION OF § 3-601.1 OF THE~~  
 18 ~~CRIMINAL LAW ARTICLE, WHETHER OR NOT THE PERSON WHO COMMITTED THE~~  
 19 ~~ACT IS CHARGED WITH A CRIME.~~

20 ~~5-704.~~

21 ~~(a) Notwithstanding any other provision of law, including any law on privileged~~  
 22 ~~communications, each health practitioner, police officer, educator, or human service~~  
 23 ~~worker, acting in a professional capacity in this State:~~

24 ~~(1) who has reason to believe that a child has been subjected to abuse or~~  
 25 ~~neglect, shall notify the local department or the appropriate law enforcement agency; and~~

26 ~~(2) if acting as a staff member of a hospital, public health agency, child care~~  
 27 ~~institution, juvenile detention center, school, or similar institution, shall immediately~~  
 28 ~~notify and give all information required by this section to the head of the institution or the~~  
 29 ~~designee of the head.~~

30 ~~(b) (1) An individual who notifies the appropriate authorities under subsection~~  
 31 ~~(a) of this section shall make:~~

~~(i) an oral report, by telephone or direct communication, as soon as possible to the local department or appropriate law enforcement agency; and~~

~~(ii) a written report:~~

~~1. to the local department not later than 48 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and~~

~~2. with a copy to the local State's Attorney.~~

~~(2) (i) An agency to which an oral report of suspected abuse or neglect is made under paragraph (1) of this subsection shall immediately notify the other agency.~~

~~(ii) This paragraph does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.~~

~~(e) Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:~~

~~(1) the name, age, and home address of the child;~~

~~(2) the name and home address of the child's parent or other person who is responsible for the child's care;~~

~~(3) the whereabouts of the child;~~

~~(4) the nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and~~

~~(5) any other information that would help to determine:~~

~~(i) the cause of the suspected abuse or neglect; and~~

~~(ii) the identity of any individual responsible for the abuse or neglect.~~

### Article – Family Law

5-701.

(b) “Abuse” means:

(1) the physical or mental injury of a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of a child, or by any household or family member, under circumstances that indicate that the child's health or welfare is harmed or at substantial risk of being harmed; or

1           (2)   sexual abuse of a child, whether physical injuries are sustained or not.

2           (r)   **(1)**   “Mental injury” means the observable, identifiable, and substantial  
3 impairment of a child’s mental or psychological ability to function.

4           **(2)**   “MENTAL INJURY” INCLUDES THE OBSERVABLE, IDENTIFIABLE,  
5 AND SUBSTANTIAL IMPAIRMENT OF A CHILD’S MENTAL OR PSYCHOLOGICAL ABILITY  
6 TO FUNCTION THAT RESULTS FROM THE CHILD’S EXPOSURE TO AN ACT THAT  
7 CONSTITUTES A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL  
8 LAW ARTICLE, COMMITTED BY A PARENT OR HOUSEHOLD OR FAMILY MEMBER  
9 AGAINST A PARENT OR HOUSEHOLD OR FAMILY MEMBER.

10           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11   October 1, 2017.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.