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By: **Delegate K. Kelly**

Introduced and read first time: February 12, 1999

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure - Bail - Assault Against Family Members**

3 FOR the purpose of making a person who is charged with second degree assault  
4 against certain family members or former family members ineligible to give bail  
5 or be released on recognizance if the assault charge was filed while the person  
6 was free on bail or recognizance for a certain previous offense; allowing under  
7 certain conditions the person to rebut ineligibility for release on bail before  
8 determination of the prior offense; and generally relating to bail and release on  
9 recognizance.

10 BY repealing and reenacting, with amendments,  
11 Article 27 - Crimes and Punishments  
12 Section 616 1/2(c)  
13 Annotated Code of Maryland  
14 (1996 Replacement Volume and 1998 Supplement)

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

17 **Article 27 - Crimes and Punishments**

18 616 1/2.

19 (c) Any person charged with an offense hereinafter enumerated committed  
20 during the time that person had been released on bail or his own recognizance for  
21 committing an offense hereinafter enumerated, is ineligible to give bail or be released  
22 on recognizance on the subsequent charge, until all prior charges hereunder have  
23 finally been determined by the courts. But a person charged with a subsequent crime  
24 hereinafter set forth, may rebut his ineligibility for release on bail before  
25 determination of the prior charge. If, after consideration of the matters presented in  
26 rebuttal, the court hearing the application for bail is persuaded that the applicant  
27 would not pose a danger to any other person or to the community, and would appear  
28 at the time set for trial, the court may allow release pending trial on suitable bail and  
29 on such other conditions as will reasonably assure that the person charged will not  
30 flee. For the purposes of this subsection, court does not mean District Court

1 commissioners and the offenses are those specified in the following sections of Article  
2 27 of the Annotated Code of Maryland (1967 Repl. Vol.) as they may be amended from  
3 time to time:

4 (1) Section 6 (relating to arson in the first degree) and attempting,  
5 aiding, counseling, or procuring arson in the first degree;

6 (2) Section 7 (relating to arson in the second degree) and attempting,  
7 aiding, counseling, or procuring arson in the second degree;

8 (3) SECTION 12A (RELATING TO ASSAULT IN THE SECOND DEGREE), IF  
9 THE VICTIM IS:

10 (I) THE CURRENT OR FORMER SPOUSE OF THE PERSON;

11 (II) A COHABITANT OF THE PERSON;

12 (III) AN INDIVIDUAL RELATED BY BLOOD, MARRIAGE, OR ADOPTION  
13 TO THE PERSON; OR

14 (IV) AN INDIVIDUAL WHO HAS A CHILD IN COMMON WITH THE  
15 PERSON.

16 (4) Section 12A-1 (relating to assault in the first degree);

17 [(4)] (5) Section 29 (relating to burglary in the first degree);

18 [(5)] (6) Section 30 (relating to burglary in the second degree);

19 [(6)] (7) Section 31 (relating to burglary in the third degree);

20 [(7)] (8) Section 35C (causing abuse to child under 18);

21 [(8)] (9) Section 139C (relating to destructive devices);

22 [(9)] (10) Section 286 (relating to the manufacture, distribution, etc., or  
23 to the counterfeiting, etc., of a controlled dangerous substance or of certain equipment  
24 relating thereto and relating to the keeping of a common nuisance as related to drug  
25 abuse);

26 [(10)] (11) Section 337 (relating to kidnapping generally);

27 [(11)] (12) Section 338 (relating to kidnapping children under sixteen);

28 [(12)] (13) Section 388 (relating to manslaughter by automobile, etc.);

29 [(13)] (14) Section 407 (relating to first degree murder);

30 [(14)] (15) Section 408 (relating to murder committed in perpetration of  
31 arson);

- 1                    [(15)]    (16)    Section 409 (relating to murder committed in burning barns,  
2 etc.);
- 3                    [(16)]    (17)    Section 410 (relating to murder committed in perpetration of  
4 rape in any degree, sexual offense in the first or second degree, sodomy, etc.);
- 5                    [(17)]    (18)    Section 411 (relating to second degree murder);
- 6                    [(18)]    (19)    Section 411A (relating to attempted murder in the first or  
7 second degree);
- 8                    [(19)]    (20)    Sections 462 and 463 (relating to rape in the first and second  
9 degree);
- 10                   [(20)]    (21)    Section 464F (relating to attempted rape or sexual offense in  
11 the first or second degree);
- 12                   [(21)]    (22)    Section 486 (relating to robbery generally); and
- 13                   [(22)]    (23)    Section 488 (relating to robbery with a deadly weapon).
- 14    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
15 October 1, 1999.