

HOUSE BILL 610

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2001 Regular Session
11r1026
CF 11r1027

By: **Delegates Getty and Doory (Committee to Revise Article 27 - Crimes and Punishments)**

Introduced and read first time: February 7, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Accessory After the Fact - Benefit of Clergy**

3 FOR the purpose of providing that persons convicted of being an accessory after the
4 fact are guilty of a felony and on conviction are subject to certain penalties under
5 certain circumstances; providing a certain exception; repealing certain
6 provisions of law relating to penalties for certain felonies and benefit of clergy;
7 making stylistic changes; providing that the Committee Notes contained in this
8 Act are not law and may not be considered in a certain manner; and generally
9 relating to penalties for accessory before the fact and benefit of clergy.

10 BY adding to
11 Article 27 - Crimes and Punishments
12 Section 2A to be under the new subheading "Accessory After the Fact"
13 Annotated Code of Maryland
14 (1996 Replacement Volume and 2000 Supplement)

15 BY repealing and reenacting, with amendments,
16 Article 27 - Crimes and Punishments
17 Section 626
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2000 Supplement)

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

1 **Article 27 - Crimes and Punishments**

2 ACCESSORY AFTER THE FACT

3 2A.

4 UNLESS OTHERWISE PROVIDED BY LAW, A PERSON WHO IS CONVICTED OF
5 BEING AN ACCESSORY AFTER THE FACT TO A FELONY IS GUILTY OF A FELONY AND
6 ON CONVICTION IS SUBJECT TO THE LESSER OF:

7 (1) IMPRISONMENT NOT EXCEEDING 5 YEARS; OR

8 (2) A PENALTY NOT EXCEEDING THE MAXIMUM PENALTY PROVIDED BY
9 LAW FOR COMMITTING THE CRIME.

10 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27 OF THE
11 ANNOTATED CODE): This section codifies current law concerning the penalty for
12 being an accessory after the fact to a common law felony. *See Osborne v. State*, 304
13 Md. 323, 499 A.2d 170 (1985). It further provides that the maximum penalty for being
14 an accessory after the fact may not exceed the maximum punishment for the
15 completed crime. These general provisions would not apply if a law specifically
16 provides a penalty for being an accessory.

17 626.

18 [All claims] ANY CLAIM to dispensation from punishment by benefit of clergy
19 [are forever] IS abolished[; and every person convicted of any felony heretofore
20 deemed clergyable shall be sentenced to undergo a confinement in the penitentiary
21 for any time not less than eighteen months nor more than five years, except in those
22 cases where some other specific penalty is prescribed by this Code. And every person
23 who shall be convicted of any felony heretofore excluded from the benefit of clergy,
24 and not specified in this Code, shall be sentenced to undergo a confinement in the
25 penitentiary for not less than five nor more than twenty years].

26 COMMITTEE NOTE (COMMITTEE TO REVISE ARTICLE 27 OF THE
27 ANNOTATED CODE): For current provisions concerning the penalty for being an
28 accessory after the fact to a felony, *see* § 2A of this article. The Committee is not aware
29 of any other common law felonies which have not been codified, do not have a
30 statutory penalty, or have not been repealed. If there is such an offense, the repeal of
31 the penalty provisions in this section would mean that the person is subject to the
32 same penalties as a person who commits a common law misdemeanor in the State
33 such as resisting arrest, *i.e.*, a penalty limited only by the constitutional prohibition
34 against cruel and unusual punishment.

35 SECTION 2. AND BE IT FURTHER ENACTED, That the Committee Notes
36 contained in this Act are not law and may not be considered to have been enacted as
37 a part of this Act.

38 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
39 October 1, 2001.

