

SENATE BILL 406

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2001 Regular Session
1r1917

By: **Senators Ferguson, Colburn, DeGrange, Dyson, Hafer, Harris, Hooper,
Jacobs, Jimeno, Mooney, and Stoltzfus**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Drug Free Zones - Child Care Centers and Family Day Care**
3 **Homes**

4 FOR the purpose of making it a felony to commit certain drug related offenses in or on
5 the property of child care centers and family day care homes; establishing
6 certain penalties for committing certain drug related offenses in child care
7 centers and family day care homes; establishing that a sentence imposed for
8 committing certain drug related offenses in child care centers and family day
9 care homes be served consecutively to other sentences; providing that certain
10 sentences do not merge; authorizing the Department of Human Resources to
11 adopt certain regulations authorizing the posting of certain signs; requiring
12 certain signs to provide a certain notice; defining certain terms; and generally
13 relating to criminal law and drug free zones in child care centers and family day
14 care centers.

15 BY adding to
16 Article 27 - Crimes and Punishments
17 Section 286D-1
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2000 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Family Law
22 Section 5-501(e) and (f) and 5-570(c)
23 Annotated Code of Maryland
24 (1999 Replacement Volume and 2000 Supplement)

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

Article 27 - Crimes and Punishments

2 286D-1.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.

5 (2) "CHILD CARE CENTER" HAS THE MEANING INDICATED IN § 5-570(C)
6 OF THE FAMILY LAW ARTICLE.

7 (3) "FAMILY DAY CARE HOME" HAS THE MEANING INDICATED IN §
8 5-501(F) OF THE FAMILY LAW ARTICLE.

9 (B) (1) A PERSON MAY NOT MANUFACTURE, DISTRIBUTE, DISPENSE, OR
10 POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED DANGEROUS SUBSTANCE IN
11 VIOLATION OF § 286(A)(1) OF THIS SUBHEADING, OR CONSPIRE TO COMMIT ANY OF
12 THESE OFFENSES, IN OR ON THE PROPERTY OF A CHILD CARE CENTER OR FAMILY
13 DAY CARE HOME.

14 (2) A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A FELONY
15 AND, ON CONVICTION, IS SUBJECT TO:

16 (I) FOR A FIRST OFFENSE, IMPRISONMENT FOR NOT MORE THAN
17 20 YEARS OR A FINE OF NOT MORE THAN \$20,000 OR BOTH; OR

18 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT
19 FOR NOT LESS THAN 5 OR MORE THAN 40 YEARS OR A FINE OF NOT MORE THAN
20 \$40,000 OR BOTH.

21 (3) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SERVED
22 CONSECUTIVELY TO ANY OTHER SENTENCE IMPOSED.

23 (C) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A CONVICTION
24 ARISING UNDER THIS SECTION MAY NOT MERGE WITH A CONVICTION FOR A
25 VIOLATION OF § 286 OR § 286C OF THIS SUBHEADING.

26 (D) (1) THE DEPARTMENT OF HUMAN RESOURCES MAY ADOPT
27 REGULATIONS AUTHORIZING THE POSTING OF SIGNS DESIGNATING CHILD CARE
28 CENTERS OR FAMILY DAY CARE HOMES AS "DRUG FREE ZONES".

29 (2) THE SIGNS SHALL BE DESIGNED TO PROVIDE NOTICE OF THE
30 PROVISIONS OF THIS SECTION.

Article - Family Law

32 5-501.

33 (e) "Family day care" means the care given to a child under the age of 13 years
34 or to any developmentally disabled person under the age of 21 years of age, in place of

1 parental care for less than 24 hours a day, in a residence other than the child's
2 residence, for which the day care provider is paid.

3 (f) "Family day care home" means a residence in which family day care is
4 provided.

5 5-570.

6 (c) (1) "Child care center" means an agency, institution, or establishment
7 that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least
8 twice a week, offers or provides child care to children who do not have the same
9 parentage except as otherwise provided for in law or regulation.

10 (2) "Child care center" shall include a nonpublic nursery school in which
11 an instructional program is offered or provided for children who are under the age of
12 5 years.

13 (3) "Child care center" does not include:

14 (i) a nonpublic kindergarten in which an instructional program is
15 offered or provided for children who are at least 5 years old;

16 (ii) a nonpublic elementary school in which an instructional
17 program is offered or provided for children who are in grades 1 through 8;

18 (iii) a child care home, a child care institution, or other child care
19 facility that offers or provides a residential placement for a child and is established,
20 licensed, or registered under this subtitle, Article 83C of the Code, or Title 10 of the
21 Health - General Article; or

22 (iv) a family day care home that is required to be registered or is
23 registered under this subtitle.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
25 October 1, 2001.