
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

Committee Report: Favorable with amendments

Senate action: Adopted

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CHAPTER _____

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, on, or within a~~
6 certain distance of real property upon which is located a child care center or
7 family day care home; establishing certain penalties for committing certain drug
8 related offenses in child care centers and family day care homes; establishing
9 that a sentence imposed for committing certain drug related offenses in child
10 care centers and family day care homes be served consecutively to other
11 sentences; providing that certain sentences do not merge; authorizing the
12 Department of Human Resources to adopt certain regulations authorizing the
13 voluntary posting of certain signs; requiring certain signs to provide a certain
14 notice; requiring the admissibility of certain maps depicting certain areas in
15 certain prosecutions for certain offenses; establishing certain maps as prima
16 facie evidence of certain locations and boundaries of certain areas under certain
17 circumstances; providing for the revision, filing, and maintenance of certain
18 maps under certain circumstances; defining certain terms; and generally
19 relating to criminal law and drug free zones in child care centers and family day
20 care ~~centers~~ homes.

21 BY adding to
22 Article 27 - Crimes and Punishments
23 Section 286D-1
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 2000 Supplement)

1 BY repealing and reenacting, without amendments,
2 Article - Family Law
3 Section 5-501(e) and (f) and 5-570(c)
4 Annotated Code of Maryland
5 (1999 Replacement Volume and 2000 Supplement)

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

8 **Article 27 - Crimes and Punishments**

9 286D-1.

10 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
11 INDICATED.

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

14 (3) "FAMILY DAY CARE HOME" HAS THE MEANING INDICATED IN §
15 5-501(F) OF THE FAMILY LAW ARTICLE.

16 (B) (1) A PERSON MAY NOT MANUFACTURE, DISTRIBUTE, DISPENSE, OR
17 POSSESS WITH INTENT TO DISTRIBUTE A CONTROLLED DANGEROUS SUBSTANCE IN
18 VIOLATION OF § 286(A)(1) OF THIS SUBHEADING, OR CONSPIRE TO COMMIT ANY OF
19 THESE OFFENSES, ~~IN OR ON THE PROPERTY OF~~ ON, OR WITHIN 1,000 FEET OF REAL
20 PROPERTY UPON WHICH IS LOCATED A CHILD CARE CENTER OR FAMILY DAY CARE
21 HOME.

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

24 (I) FOR A FIRST OFFENSE, IMPRISONMENT FOR NOT MORE THAN
25 20 YEARS OR A FINE OF NOT MORE THAN \$20,000 OR BOTH; OR

26 (II) FOR A SECOND OR SUBSEQUENT OFFENSE, IMPRISONMENT
27 FOR NOT LESS THAN 5 OR MORE THAN 40 YEARS OR A FINE OF NOT MORE THAN
28 \$40,000 OR BOTH.

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

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

34 (D) (1) THE DEPARTMENT OF HUMAN RESOURCES MAY ADOPT
35 REGULATIONS AUTHORIZING THE VOLUNTARY POSTING OF SIGNS ~~DESIGNATING~~
36 ~~CHILD CARE CENTERS OR FAMILY DAY CARE HOMES AS~~ BY THE OWNER OR

1 OPERATOR OF A CHILD CARE CENTER OR FAMILY DAY CARE HOME DESIGNATING
2 THE PROPERTY DESCRIBED IN SUBSECTION (B)(1) OF THIS SECTION AS A "DRUG FREE
3 ZONES ZONE".

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

6 (E) (1) IN A PROSECUTION UNDER THIS SECTION, A MAP PRODUCED OR
7 REPRODUCED BY ANY MUNICIPAL OR COUNTY AGENCY OR DEPARTMENT FOR THE
8 PURPOSE OF DEPICTING THE LOCATION AND BOUNDARIES OF THE AREA ON OR
9 WITHIN 1,000 FEET OF THE PROPERTY UPON WHICH IS LOCATED A CHILD CARE
10 CENTER OR FAMILY DAY CARE HOME, OR A TRUE COPY OF THE MAP, SHALL, IF
11 CERTIFIED AS A TRUE COPY BY THE CUSTODIAN OF THE RECORD, BE ADMISSIBLE
12 AND SHALL CONSTITUTE PRIMA FACIE EVIDENCE OF THE LOCATION AND
13 BOUNDARIES OF THE AREA, IF THE GOVERNING BODY OF THE MUNICIPALITY OR
14 COUNTY HAS APPROVED THE MAP AS AN OFFICIAL RECORD OF THE LOCATION AND
15 BOUNDARIES OF THE AREA.

16 (2) A MAP APPROVED UNDER THIS SECTION MAY BE REVISED FROM
17 TIME TO TIME BY THE GOVERNING BODY OF THE MUNICIPALITY OR COUNTY.

18 (3) THE ORIGINAL OF EVERY MAP APPROVED OR REVISED UNDER THIS
19 SECTION, OR A TRUE COPY, SHALL BE FILED WITH THE MUNICIPALITY OR COUNTY
20 AND SHALL BE MAINTAINED AS AN OFFICIAL RECORD OF THE MUNICIPALITY OR
21 COUNTY.

22 (4) THIS SECTION DOES NOT PRECLUDE THE PROSECUTION FROM
23 INTRODUCING OR RELYING UPON ANY OTHER EVIDENCE OR TESTIMONY TO
24 ESTABLISH ANY ELEMENT OF THIS OFFENSE.

25 (5) THIS SECTION DOES NOT PRECLUDE THE USE OR ADMISSIBILITY OF
26 A MAP OR DIAGRAM OTHER THAN THE ONE WHICH HAS BEEN APPROVED BY THE
27 MUNICIPALITY OR COUNTY.

28 **Article - Family Law**

29 5-501.

30 (e) "Family day care" means the care given to a child under the age of 13 years
31 or to any developmentally disabled person under the age of 21 years of age, in place of
32 parental care for less than 24 hours a day, in a residence other than the child's
33 residence, for which the day care provider is paid.

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

36 5-570.

37 (c) (1) "Child care center" means an agency, institution, or establishment
38 that, for part or all of a day, or on a 24-hour basis on a regular schedule, and at least

1 twice a week, offers or provides child care to children who do not have the same
2 parentage except as otherwise provided for in law or regulation.

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

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

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

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

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

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

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