

SENATE BILL 552

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2001 Regular Session  
1lr0699

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By: **Senator Colburn**

Introduced and read first time: February 2, 2001

Assigned to: Judicial Proceedings

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A BILL ENTITLED

1 AN ACT concerning

2 **Eastern Shore Code Home Rule Counties - Juvenile Curfew Ordinance**

3 FOR the purpose of authorizing a code county in the Eastern Shore class to adopt a  
4 model juvenile curfew ordinance; providing for the juvenile curfew ordinance to  
5 apply in a municipal corporation located in a county adopting the ordinance;  
6 providing for the scope of the ordinance; requiring a juvenile curfew ordinance to  
7 prohibit certain practices by certain persons; providing exceptions to the  
8 ordinance; authorizing local law enforcement officers to take custody of a minor  
9 violating the ordinance under certain circumstances; providing certain notice  
10 provisions; providing for the release of a minor taken into custody for violating  
11 the ordinance under certain circumstances; providing certain fines; defining a  
12 certain term; and generally relating to authorizing a code county in the Eastern  
13 Shore class to adopt a juvenile curfew ordinance.

14 BY adding to  
15 Article 25B - Home Rule for Code Counties  
16 Section 13C-1  
17 Annotated Code of Maryland  
18 (1998 Replacement Volume and 2000 Supplement)

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

21 **Article 25B - Home Rule for Code Counties**

22 13C-1.

23 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
24 INDICATED.

25 (2) "CURFEW HOURS" MEANS:

26 (I) 11:00 P.M. ON A SUNDAY, MONDAY, TUESDAY, WEDNESDAY, OR  
27 THURSDAY UNTIL 6:00 A.M. OF THE FOLLOWING DAY; AND

28 (II) 12:01 A.M. UNTIL 6:00 A.M. ON SATURDAY OR SUNDAY.

1 (3) "EMERGENCY" MEANS A SUDDEN OR UNEXPECTED HAPPENING OR  
2 AN UNFORESEEN COMBINATION OF CIRCUMSTANCES THAT CALLS FOR IMMEDIATE  
3 ACTION TO PROTECT THE HEALTH, SAFETY, WELFARE, OR PROPERTY OF AN  
4 INDIVIDUAL FROM ACTUAL OR THREATENED HARM OR FROM AN UNLAWFUL ACT.

5 (4) "ESTABLISHMENT" MEANS A PRIVATELY OWNED PLACE OF  
6 BUSINESS OPERATED FOR A PROFIT TO WHICH THE PUBLIC IS INVITED.

7 (5) "GUARDIAN" MEANS A PERSON WHO IS APPOINTED BY A COURT AS A  
8 GUARDIAN OF A MINOR.

9 (6) (I) "KNOWINGLY" MEANS CONSCIOUSLY, WILLFULLY, AND  
10 INTENTIONALLY.

11 (II) "KNOWINGLY" INCLUDES TO KNOW OR TO REASONABLY KNOW.

12 (7) (I) "PUBLIC PLACE" MEANS A PLACE TO WHICH THE GENERAL  
13 PUBLIC HAS ACCESS AND A RIGHT TO RESORT FOR BUSINESS, ENTERTAINMENT, OR  
14 OTHER LAWFUL PURPOSE.

15 (II) "PUBLIC PLACE" INCLUDES:

16 1. A PUBLIC STREET, SIDEWALK, ALLEY, HIGHWAY, AND  
17 RIGHT-OF-WAY OF A PUBLIC STREET OR HIGHWAY; AND

18 2. THE COMMON AREAS OF A TRANSPORT FACILITY, SCHOOL,  
19 HOSPITAL, APARTMENT BUILDING, OFFICE BUILDING, SHOPPING CENTER, PARK,  
20 PLAYGROUND, PARKING LOT, THEATER, RESTAURANT, BOWLING ALLEY, TAVERN,  
21 CAFE, ARCADE, AND SHOPS.

22 (8) "REMAIN" MEANS TO:

23 (I) LINGER OR STAY UNNECESSARILY IN A PUBLIC PLACE; OR

24 (II) FAIL TO LEAVE THE PREMISES OF AN ESTABLISHMENT OR  
25 PUBLIC PLACE WHEN ASKED BY A LOCAL LAW ENFORCEMENT OFFICER OR  
26 EMPLOYEE OF THE ESTABLISHMENT OR PUBLIC PLACE.

27 (B) THE PROVISIONS OF THIS SECTION APPLY TO CODE COUNTIES IN THE  
28 EASTERN SHORE CLASS AS ESTABLISHED BY ARTICLE 25B, § 2.

29 (C) (1) AFTER MAKING INDEPENDENT FACTUAL FINDINGS  
30 DEMONSTRATING A LOCAL NEED FOR A JUVENILE CURFEW, THE COUNTY  
31 COMMISSIONERS IN THEIR RESPECTIVE JURISDICTIONS MAY ADOPT A JUVENILE  
32 CURFEW ORDINANCE WHICH SHALL APPLY THROUGHOUT THE COUNTY, INCLUDING  
33 IN A MUNICIPAL CORPORATION IN THE COUNTY.

34 (D) A JUVENILE CURFEW ORDINANCE SHALL STATE THAT:

35 (1) A MINOR MAY NOT REMAIN IN A PUBLIC PLACE OR ON THE PREMISES  
36 OF AN ESTABLISHMENT WITHIN THE LOCAL JURISDICTION DURING CURFEW HOURS;

1           (2)     A PARENT OR GUARDIAN OF A MINOR MAY NOT KNOWINGLY ALLOW  
2 THE MINOR TO REMAIN IN A PUBLIC PLACE OR ON THE PREMISES OF AN  
3 ESTABLISHMENT WITHIN THE LOCAL JURISDICTION DURING CURFEW HOURS; AND

4           (3)     THE OWNER, OPERATOR, OR EMPLOYEE OF AN ESTABLISHMENT MAY  
5 NOT KNOWINGLY ALLOW A MINOR TO REMAIN ON THE PREMISES OF THE  
6 ESTABLISHMENT WITHIN THE LOCAL JURISDICTION DURING CURFEW HOURS.

7     (E)     A JUVENILE CURFEW ORDINANCE ADOPTED UNDER THIS SECTION DOES  
8 NOT APPLY TO A MINOR WHO IS:

9           (1)     ACCOMPANIED BY THE MINOR'S PARENT OR GUARDIAN;

10          (2)     PERFORMING AN ERRAND AT THE DIRECTION OF THE MINOR'S  
11 PARENT OR GUARDIAN, WITHOUT A DETOUR OR STOP, UNTIL 12:30 A.M.;

12          (3)     ACCOMPANIED BY A PERSON AT LEAST 18 YEARS OF AGE AND  
13 AUTHORIZED BY THE MINOR'S PARENT OR GUARDIAN TO HAVE TEMPORARY CARE OR  
14 CUSTODY OF THE MINOR FOR A DESIGNATED PERIOD OF TIME WITHIN A SPECIFIED  
15 AREA;

16          (4)     WITH CONSENT OF THE MINOR'S PARENT OR GUARDIAN, INVOLVED  
17 IN INTERSTATE TRAVEL THROUGH THE LOCAL JURISDICTION OR BEGINNING OR  
18 ENDING IN THE LOCAL JURISDICTION;

19          (5)     ENGAGED IN LEGAL EMPLOYMENT ACTIVITY OR IS GOING TO OR  
20 RETURNING HOME FROM A LEGAL EMPLOYMENT ACTIVITY, WITHOUT A DETOUR OR  
21 STOP;

22          (6)     INVOLVED IN AN EMERGENCY;

23          (7)     ON THE PROPERTY WHERE THE MINOR RESIDES OR ON THE  
24 SIDEWALK ABUTTING THE MINOR'S RESIDENCE OR ABUTTING THE RESIDENCE OF A  
25 NEXT-DOOR NEIGHBOR, IF THE ADULT RESIDENT OF THAT PROPERTY HAS GIVEN  
26 PERMISSION FOR THE MINOR'S PRESENCE;

27          (8)     ATTENDING OR RETURNING DIRECTLY HOME FROM, WITHOUT A  
28 DETOUR OR STOP AND WITHIN 1 HOUR BEFORE OR AFTER THE END OF:

29                 (I)     A SCHOOL, RELIGIOUS, OR RECREATIONAL ACTIVITY  
30 SUPERVISED BY ADULTS AND SPONSORED BY THE LOCAL JURISDICTION, A CIVIC  
31 ORGANIZATION, OR A VOLUNTARY ASSOCIATION THAT TAKES RESPONSIBILITY FOR  
32 THE MINOR; OR

33                 (II)    A PLACE OF PUBLIC ENTERTAINMENT, INCLUDING A MOVIE,  
34 PLAY, OR SPORTING EVENT;

35          (9)     EXERCISING FIRST AMENDMENT RIGHTS UNDER THE UNITED  
36 STATES CONSTITUTION, IF THE MINOR HAS FIRST SUBMITTED TO THE CHIEF OF THE  
37 LOCAL LAW ENFORCEMENT AGENCY A WRITTEN COMMUNICATION THAT:

1 (I) IS SIGNED BY THE MINOR AND COUNTERSIGNED, IF  
2 PRACTICABLE, BY THE PARENT OR GUARDIAN OF THE MINOR;

3 (II) INCLUDES THE PARENT'S OR GUARDIAN'S HOME ADDRESS AND  
4 TELEPHONE NUMBER; AND

5 (III) SPECIFIES WHEN, WHERE, AND IN WHAT MANNER THE MINOR  
6 WILL BE IN A PUBLIC PLACE DURING CURFEW HOURS; OR

7 (10) REMAINING IN A PUBLIC PLACE IN A CASE OF REASONABLE  
8 NECESSITY IF THE MINOR'S PARENT OR GUARDIAN HAS COMMUNICATED TO THE  
9 CHIEF OF THE LOCAL LAW ENFORCEMENT AGENCY FACTS:

10 (I) ESTABLISHING THE REASONABLE NECESSITY; AND

11 (II) DESIGNATING:

12 1. THE SPECIFIC PUBLIC PLACE AND THE POINTS OF ORIGIN  
13 AND DESTINATION FOR THE MINOR'S TRAVEL; AND

14 2. THE TIMES THE MINOR WILL BE IN THE PUBLIC PLACE OR  
15 TRAVELING TO OR FROM THE PUBLIC PLACE.

16 (F) (1) IF A LAW ENFORCEMENT OFFICER REASONABLY BELIEVES THAT A  
17 MINOR IS IN A PUBLIC PLACE IN VIOLATION OF THE JUVENILE CURFEW ORDINANCE,  
18 THE OFFICER SHALL:

19 (I) NOTIFY THE MINOR THAT THE MINOR IS IN VIOLATION OF THE  
20 JUVENILE CURFEW ORDINANCE;

21 (II) REQUIRE THE MINOR TO TELL THE OFFICER THE MINOR'S  
22 NAME, ADDRESS, TELEPHONE NUMBER, AND WHERE TO CONTACT THE MINOR'S  
23 PARENT OR GUARDIAN;

24 (III) ISSUE THE MINOR A WRITTEN WARNING THAT THE MINOR IS IN  
25 VIOLATION OF THE JUVENILE CURFEW ORDINANCE; AND

26 (IV) ORDER THE MINOR TO PROMPTLY GO HOME.

27 (2) THE CHIEF OF THE LOCAL LAW ENFORCEMENT AGENCY SHALL  
28 SEND WRITTEN NOTICE OF THE VIOLATION OF THE JUVENILE CURFEW ORDINANCE  
29 TO THE MINOR'S PARENT OR GUARDIAN.

30 (G) THE LOCAL LAW ENFORCEMENT AGENCY MAY TAKE THE MINOR:

31 (1) TO THE MINOR'S HOME, IF APPROPRIATE; OR

32 (2) INTO CUSTODY AND TRANSPORT THE MINOR TO A LOCAL LAW  
33 ENFORCEMENT STATION OR DESIGNATED CURFEW CENTER WHEN:

1 (I) THE MINOR HAS RECEIVED ONE PREVIOUS WRITTEN WARNING  
2 FOR A VIOLATION OF THE JUVENILE CURFEW ORDINANCE;

3 (II) THE LOCAL LAW ENFORCEMENT OFFICER HAS REASONABLE  
4 GROUNDS TO BELIEVE THAT THE MINOR HAS COMMITTED A DELINQUENT ACT; OR

5 (III) TAKING THE MINOR INTO CUSTODY IS AUTHORIZED UNDER §  
6 3-814 OF THE COURTS ARTICLE.

7 (H) WHEN A MINOR IS TAKEN INTO CUSTODY FOR A VIOLATION OF THE  
8 JUVENILE CURFEW ORDINANCE, THE LOCAL LAW ENFORCEMENT OFFICER SHALL:

9 (1) IMMEDIATELY NOTIFY THE PARENT OR GUARDIAN OF THE MINOR TO  
10 COME TO THE LOCAL LAW ENFORCEMENT STATION TO TAKE CUSTODY OF THE  
11 MINOR; AND

12 (2) DETERMINE WHETHER, CONSISTENT WITH CONSTITUTIONAL  
13 SAFEGUARDS, THE MINOR OR THE PARENT OR GUARDIAN, OR BOTH, ARE IN  
14 VIOLATION OF THE JUVENILE CURFEW ORDINANCE.

15 (I) (1) WHEN A PARENT OR GUARDIAN ARRIVES AT THE LOCAL LAW  
16 ENFORCEMENT STATION AS A RESULT OF SUBSECTION (H) OF THIS SECTION, AND  
17 THE APPROPRIATE INFORMATION IS RECORDED, THE MINOR SHALL BE RELEASED TO  
18 THE CUSTODY OF THE PARENT OR GUARDIAN.

19 (2) IF THE PARENT OR GUARDIAN CANNOT BE LOCATED OR FAILS TO  
20 TAKE CHARGE OF THE MINOR, THEN THE MINOR SHALL BE RELEASED TO THE LOCAL  
21 DEPARTMENT OF SOCIAL SERVICES, THE DEPARTMENT OF JUVENILE JUSTICE, OR TO  
22 ANOTHER ADULT WHO WILL, ON BEHALF OF THE PARENT OR GUARDIAN, ASSUME  
23 THE RESPONSIBILITY OF CARING FOR THE MINOR PENDING THE AVAILABILITY OR  
24 ARRIVAL OF THE PARENT OR GUARDIAN.

25 (J) (1) A PERSON WHO VIOLATES A JUVENILE CURFEW ORDINANCE IS  
26 SUBJECT TO A FINE OF NOT MORE THAN \$500 FOR EACH VIOLATION.

27 (2) A PERSON WHO VIOLATES A JUVENILE CURFEW ORDINANCE A  
28 SECOND OR SUBSEQUENT TIME IS SUBJECT TO A FINE OF NOT MORE THAN \$1,000  
29 FOR EACH VIOLATION.

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