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By: **Delegates Kelley, Anderson, Dumais, Dwyer, Kelly, Lee, Leopold, Mayer, McComas, Menes, Niemann, Parker, Patterson, Petzold, Ramirez, Rosenberg, Shank, Shewell, Simmons, Smigiel, Sophocleus, V. Turner, and Zirkin**

Introduced and read first time: February 10, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law and Procedure - Criminal Gang Offenses**

3 FOR the purpose of authorizing information relating to criminal gang affiliation to be  
4 included in a presentence investigation report under certain circumstances;  
5 prohibiting a person from threatening another with physical violence with the  
6 intent to coerce, induce, or solicit the other to participate in or prevent the other  
7 from leaving a criminal gang; prohibiting a person from using physical violence  
8 with the intent to coerce, induce, or solicit another to participate in or prevent  
9 the other from leaving a criminal gang; establishing certain penalties for certain  
10 violations of this Act; expanding the list of offenses for which a law enforcement  
11 agency making an arrest of a child enrolled in a public school system is required  
12 to notify the local superintendent to include certain offenses involving gang  
13 affiliation; defining certain terms; providing for the construction of this Act; and  
14 generally relating to criminal gang offenses.

15 BY repealing and reenacting, with amendments,  
16 Article - Correctional Services  
17 Section 6-112(b)  
18 Annotated Code of Maryland  
19 (1999 Volume and 2004 Supplement)

20 BY adding to  
21 Article - Criminal Law  
22 Section 9-801 through 9-803, inclusive, to be under the new subtitle "Subtitle  
23 8. Criminal Gang Offenses"  
24 Annotated Code of Maryland  
25 (2002 Volume and 2004 Supplement)

26 BY repealing and reenacting, with amendments,  
27 Article - Education  
28 Section 7-303(a)(5)

1 Annotated Code of Maryland  
2 (2004 Replacement Volume and 2004 Supplement)

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

5 **Article - Correctional Services**

6 6-112.

7 (b) (1) If a circuit court is satisfied that a presentence investigation report  
8 would help the sentencing process, the court may order the Division to complete a  
9 report before:

10 (i) sentencing a defendant who is convicted of a felony or of a  
11 misdemeanor that resulted in serious physical injury or death to the victim to the  
12 jurisdiction of the Division of Correction; or

13 (ii) referring a defendant to the Patuxent Institution.

14 (2) The party that requests the report has the burden of establishing  
15 that the investigation should be ordered.

16 (3) If required under § 11-402 of the Criminal Procedure Article, the  
17 report shall include a victim impact statement.

18 (4) IF THE DEFENDANT HAS BEEN CONVICTED OF A FELONY OR  
19 MISDEMEANOR THAT IS RELATED TO THE DEFENDANT'S MEMBERSHIP IN A GROUP  
20 WHOSE MEMBERS, WITH KNOWLEDGE, INDIVIDUALLY OR COLLECTIVELY COMMIT,  
21 ATTEMPT TO COMMIT, ENGAGE IN CONSPIRACY TO COMMIT, OR SOLICIT ANOTHER  
22 TO COMMIT CRIMINAL ACTS, THE REPORT MAY INCLUDE INFORMATION REGARDING  
23 THE GROUP AFFILIATION OF THE DEFENDANT.

24 **Article - Criminal Law**

25 **SUBTITLE 8. CRIMINAL GANG OFFENSES.**

26 9-801.

27 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
28 INDICATED.

29 (B) "COERCE" MEANS TO COMPEL OR ATTEMPT TO COMPEL ANOTHER BY  
30 THREAT OF HARM OR OTHER ADVERSE CONSEQUENCES.

31 (C) "CRIMINAL GANG" MEANS A GROUP WHOSE MEMBERS, WITH KNOWLEDGE,  
32 INDIVIDUALLY OR COLLECTIVELY COMMIT, ATTEMPT TO COMMIT, ENGAGE IN  
33 CONSPIRACY TO COMMIT, OR SOLICIT ANOTHER TO COMMIT CRIMINAL ACTS.

34 (D) "SOLICIT" HAS THE MEANING STATED IN § 11-301 OF THIS ARTICLE.

1 9-802.

2 (A) A PERSON MAY NOT THREATEN ANOTHER WITH PHYSICAL VIOLENCE  
3 WITH THE INTENT TO COERCE, INDUCE, OR SOLICIT THE OTHER TO PARTICIPATE IN  
4 OR PREVENT THE OTHER FROM LEAVING A CRIMINAL GANG.

5 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON  
6 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE  
7 NOT EXCEEDING \$1,000 OR BOTH.

8 9-803.

9 (A) A PERSON MAY NOT USE PHYSICAL VIOLENCE TO COERCE, INDUCE, OR  
10 SOLICIT ANOTHER TO PARTICIPATE IN OR PREVENT THE OTHER FROM LEAVING A  
11 CRIMINAL GANG.

12 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY AND ON  
13 CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 2 YEARS OR A FINE  
14 NOT EXCEEDING \$1,000 OR BOTH.

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#### Article - Education

16 7-303.

17 (a) (5) "Reportable offense" means:

18 (i) A crime of violence, as defined in § 14-101 of the Criminal Law  
19 Article;

20 (ii) Any of the offenses enumerated in § 3-8A-03(d)(4) of the Courts  
21 Article;

22 (iii) A violation of § 4-101, § 4-102, § 4-203, or § 4-204 of the  
23 Criminal Law Article;

24 (iv) A violation of §§ 5-602 through 5-609, §§ 5-612 through 5-614,  
25 § 5-617, § 5-618, § 5-627, or § 5-628 of the Criminal Law Article; [or]

26 (v) A violation of § 4-503, § 9-504, or § 9-505 of the Criminal Law  
27 Article; OR

28 (VI) A VIOLATION OF § 9-802 OR § 9-803 OF THE CRIMINAL LAW  
29 ARTICLE.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not be  
31 construed to limit prosecution for a violation of any other provision of law with respect  
32 to any activity that constitutes a violation of this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take  
34 effect October 1, 2005.

