
By: **The Speaker (By Request - Administration) and Delegates Aumann, Bartlett, Boschert, Boteler, Cluster, Cryor, Donoghue, Eckardt, Edwards, Elliott, Elmore, Frank, Gilleland, Glassman, Haddaway, Hogan, Impallaria, Jennings, Kach, Kelly, Kohl, Krebs, Kullen, Leopold, Levy, Mayer, McComas, McConkey, McDonough, McKee, Miller, Morhaim, Myers, O'Donnell, Parrott, Shank, Shewell, Sossi, Stocksdale, Stull, Weir, and Weldon**

Introduced and read first time: January 25, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Victim and Witness Intimidation**

3 FOR the purpose of expanding the categories of crimes for which a certain type of
4 evidence is admissible at trial under certain circumstances; expanding the list of
5 crimes applicable to certain provisions that provide a greater penalty if certain
6 acts are committed against certain persons relating to the crimes; and generally
7 relating to victim and witness intimidation.

8 BY repealing and reenacting, with amendments,
9 Article - Courts and Judicial Proceedings
10 Section 10-901
11 Annotated Code of Maryland
12 (2002 Replacement Volume and 2005 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Criminal Law
15 Section 9-302, 9-303, and 9-305
16 Annotated Code of Maryland
17 (2002 Volume and 2005 Supplement)

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

20 **Article - Courts and Judicial Proceedings**

21 10-901.

22 (a) THIS SECTION APPLIES TO TRIALS FOR THE FOLLOWING CRIMES:

1 (1) ASSAULT IN THE SECOND DEGREE UNDER § 3-203 OF THE CRIMINAL
2 LAW ARTICLE FOR CASES TRIED IN A CIRCUIT COURT, UNLESS THE CASE IS BEING
3 TRIED IN A CIRCUIT COURT BECAUSE OF A DEFENDANT'S:

4 (I) APPEAL FROM THE DISTRICT COURT; OR

5 (II) REQUEST FOR A JURY TRIAL IN THE DISTRICT COURT;

6 (2) SEXUAL OFFENSE IN THE THIRD DEGREE UNDER § 3-307 OF THE
7 CRIMINAL LAW ARTICLE, OR ATTEMPTED SEXUAL OFFENSE IN THE THIRD DEGREE;

8 (3) CONTINUING COURSE OF CONDUCT WITH CHILD UNDER § 3-315 OF
9 THE CRIMINAL LAW ARTICLE;

10 (4) INCEST UNDER § 3-323 OF THE CRIMINAL LAW ARTICLE;

11 (5) SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THE CRIMINAL
12 LAW ARTICLE;

13 (6) CHILD KIDNAPPING UNDER § 3-503 OF THE CRIMINAL LAW ARTICLE;

14 (7) CHILD ABUSE UNDER § 3-601 OF THE CRIMINAL LAW ARTICLE;

15 (8) CHILD SEXUAL ABUSE UNDER § 3-602 OF THE CRIMINAL LAW
16 ARTICLE;

17 (9) A FELONIOUS VIOLATION OF TITLE 5 OF THE CRIMINAL LAW
18 ARTICLE, OR A CONSPIRACY OR SOLICITATION TO COMMIT A FELONIOUS VIOLATION
19 OF TITLE 5 OF THE CRIMINAL LAW ARTICLE; AND

20 (10) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL
21 LAW ARTICLE, OR A CONSPIRACY OR SOLICITATION TO COMMIT A CRIME OF
22 VIOLENCE AS DEFINED IN § 14-101 OF THE CRIMINAL LAW ARTICLE.

23 (B) During the trial of a criminal case in which the defendant is charged with
24 a [felonious violation of Title 5 of the Criminal Law Article or with the commission of
25 a crime of violence as defined in § 14-101 of the Criminal Law Article] CRIME
26 DESCRIBED IN SUBSECTION (A) OF THIS SECTION, a statement as defined in
27 Maryland Rule 5-801(a) is not excluded by the hearsay rule if the statement is offered
28 against a party that has engaged in, directed, or conspired to commit wrongdoing that
29 was intended to and did procure the unavailability of the declarant of the statement,
30 as defined in Maryland Rule 5-804.

31 [(b)] (C) Subject to [subsection (c)] SUBSECTION (D) of this section, before
32 admitting a statement under this section, the court shall hold a hearing outside the
33 presence of the jury at which:

34 (1) The Maryland Rules of Evidence are strictly applied; and

1 (2) The court finds by clear and convincing evidence that the party
2 against whom the statement is offered engaged in, directed, or conspired to commit
3 the wrongdoing that procured the unavailability of the declarant.

4 [(c)] (D) A statement may not be admitted under this section unless:

5 (1) The statement was:

6 (i) Given under oath subject to the penalty of perjury at a trial,
7 hearing, or other proceeding or in a deposition;

8 (ii) Reduced to writing and signed by the declarant; or

9 (iii) Recorded in substantially verbatim fashion by stenographic or
10 electronic means contemporaneously with the making of the statement; and

11 (2) As soon as is practicable after the proponent of the statement learns
12 that the declarant will be unavailable, the proponent notifies the adverse party of:

13 (i) The intention to offer the statement;

14 (ii) The particulars of the statement; and

15 (iii) The identity of the witness through whom the statement will be
16 offered.

17

Article - Criminal Law

18 9-302.

19 (a) A person may not harm another, threaten to harm another, or damage or
20 destroy property with the intent to:

21 (1) influence a victim or witness to testify falsely or withhold testimony;
22 or

23 (2) induce a victim or witness:

24 (i) to avoid the service of a subpoena or summons to testify;

25 (ii) to be absent from an official proceeding to which the victim or
26 witness has been subpoenaed or summoned; or

27 (iii) not to report the existence of facts relating to a crime or
28 delinquent act.

29 (b) A person may not solicit another person to harm another, threaten to harm
30 another, or damage or destroy property with the intent to:

31 (1) influence a victim or witness to testify falsely or withhold testimony;
32 or

- 1 (2) induce a victim or witness:
- 2 (i) to avoid the service of a subpoena or summons to testify;
- 3 (ii) to be absent from an official proceeding to which the victim or
4 witness has been subpoenaed or summoned; or
- 5 (iii) not to report the existence of facts relating to a crime or
6 delinquent act.

7 (C) A PERSON MAY NOT VIOLATE SUBSECTION (A) OR (B) OF THIS SECTION IF
8 THE TESTIMONY, SUBPOENA, OFFICIAL PROCEEDING, OR REPORT INVOLVING THE
9 VICTIM OR WITNESS RELATES TO ONE OF THE FOLLOWING CRIMES:

- 10 (1) ASSAULT IN THE SECOND DEGREE UNDER § 3-203 OF THIS ARTICLE;
- 11 (2) SEXUAL OFFENSE IN THE THIRD DEGREE UNDER § 3-307 OF THIS
12 ARTICLE, OR ATTEMPTED SEXUAL OFFENSE IN THE THIRD DEGREE;
- 13 (3) CONTINUING COURSE OF CONDUCT WITH CHILD UNDER § 3-315 OF
14 THIS ARTICLE;
- 15 (4) INCEST UNDER § 3-323 OF THIS ARTICLE;
- 16 (5) SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THIS ARTICLE;
- 17 (6) CHILD KIDNAPPING UNDER § 3-503 OF THIS ARTICLE;
- 18 (7) CHILD ABUSE UNDER § 3-601 OF THIS ARTICLE;
- 19 (8) CHILD SEXUAL ABUSE UNDER § 3-602 OF THIS ARTICLE;
- 20 (9) A FELONIOUS VIOLATION OF TITLE 5 OF THIS ARTICLE, OR A
21 CONSPIRACY OR SOLICITATION TO COMMIT A FELONIOUS VIOLATION OF TITLE 5 OF
22 THIS ARTICLE; OR
- 23 (10) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE, OR
24 A CONSPIRACY OR SOLICITATION TO COMMIT A CRIME OF VIOLENCE AS DEFINED IN
25 § 14-101 OF THIS ARTICLE.

26 [(c)] (D) (1) [Except as provided in paragraph (2) of this subsection, a] A
27 person who violates SUBSECTION (A) OR (B) OF this section is guilty of a misdemeanor
28 and on conviction is subject to imprisonment not exceeding 5 years or a fine not
29 exceeding \$5,000 or both.

30 (2) [If the testimony, subpoena, official proceeding, or report involving
31 the victim or witness relates to a felonious violation of Title 5 of this article or the
32 commission of a crime of violence as defined in § 14-101 of this article, or a conspiracy
33 or solicitation to commit such a crime, a] A person who violates SUBSECTION (C) OF
34 this section is guilty of a felony and on conviction is subject to imprisonment not
35 exceeding 20 years.

1 [(d)] (E) A sentence imposed under this section may be separate from and
2 consecutive to or concurrent with a sentence for any crime based on the act
3 establishing the violation of this section.

4 9-303.

5 (a) A person may not intentionally harm another, threaten to harm another, or
6 damage or destroy property with the intent of retaliating against a victim or witness
7 for:

8 (1) giving testimony in an official proceeding; or

9 (2) reporting a crime or delinquent act.

10 (b) A person may not solicit another person to intentionally harm another,
11 threaten to harm another, or damage or destroy property with the intent of retaliating
12 against a victim or witness for:

13 (1) giving testimony in an official proceeding; or

14 (2) reporting a crime or delinquent act.

15 (C) A PERSON MAY NOT VIOLATE SUBSECTION (A) OR (B) OF THIS SECTION IF
16 THE TESTIMONY OR REPORT OF THE VICTIM OR WITNESS RELATES TO ONE OF THE
17 FOLLOWING CRIMES:

18 (1) ASSAULT IN THE SECOND DEGREE UNDER § 3-203 OF THIS ARTICLE;

19 (2) SEXUAL OFFENSE IN THE THIRD DEGREE UNDER § 3-307 OF THIS
20 ARTICLE, OR ATTEMPTED SEXUAL OFFENSE IN THE THIRD DEGREE;

21 (3) CONTINUING COURSE OF CONDUCT WITH CHILD UNDER § 3-315 OF
22 THIS ARTICLE;

23 (4) INCEST UNDER § 3-323 OF THIS ARTICLE;

24 (5) SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THIS ARTICLE;

25 (6) CHILD KIDNAPPING UNDER § 3-503 OF THIS ARTICLE;

26 (7) CHILD ABUSE UNDER § 3-601 OF THIS ARTICLE;

27 (8) CHILD SEXUAL ABUSE UNDER § 3-602 OF THIS ARTICLE;

28 (9) A FELONIOUS VIOLATION OF TITLE 5 OF THIS ARTICLE, OR A
29 CONSPIRACY OR SOLICITATION TO COMMIT A FELONIOUS VIOLATION OF TITLE 5 OF
30 THIS ARTICLE; OR

31 (10) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE, OR
32 A CONSPIRACY OR SOLICITATION TO COMMIT A CRIME OF VIOLENCE AS DEFINED IN
33 § 14-101 OF THIS ARTICLE.

1 [(c)] (D) (1) [Except as provided in paragraph (2) of this subsection, a] A
2 person who violates SUBSECTION (A) OR (B) OF this section is guilty of a misdemeanor
3 and on conviction is subject to imprisonment not exceeding 5 years or a fine not
4 exceeding \$5,000 or both.

5 (2) [If the official proceeding or report described in subsection (a) of this
6 section relates to a felonious violation of Title 5 of this article or the commission of a
7 crime of violence as defined in § 14-101 of this article, or a conspiracy or solicitation
8 to commit such a crime, a] A person who violates SUBSECTION (C) OF this section is
9 guilty of a felony and on conviction is subject to imprisonment not exceeding 20 years.

10 [(d)] (E) A sentence imposed under this section may be separate from and
11 consecutive to or concurrent with a sentence for any crime based on the act
12 establishing the violation of this section.

13 9-305.

14 (a) A person may not, by threat, force, or corrupt means, try to influence,
15 intimidate, or impede a juror, a witness, or an officer of a court of the State or of the
16 United States in the performance of the person's official duties.

17 (b) A person may not solicit another person to, by threat, force, or corrupt
18 means, try to influence, intimidate, or impede a juror, a witness, or an officer of the
19 court of the State or of the United States in the performance of the person's official
20 duties.

21 (C) A PERSON MAY NOT VIOLATE SUBSECTION (A) OR (B) OF THIS SECTION IF
22 THE OFFICIAL DUTIES OF THE JUROR, WITNESS, OR OFFICER OF THE COURT RELATE
23 TO PROCEEDINGS FOR ONE OF THE FOLLOWING CRIMES:

24 (1) ASSAULT IN THE SECOND DEGREE UNDER § 3-203 OF THIS ARTICLE;

25 (2) SEXUAL OFFENSE IN THE THIRD DEGREE UNDER § 3-307 OF THIS
26 ARTICLE, OR ATTEMPTED SEXUAL OFFENSE IN THE THIRD DEGREE;

27 (3) CONTINUING COURSE OF CONDUCT WITH CHILD UNDER § 3-315 OF
28 THIS ARTICLE;

29 (4) INCEST UNDER § 3-323 OF THIS ARTICLE;

30 (5) SEXUAL SOLICITATION OF A MINOR UNDER § 3-324 OF THIS ARTICLE;

31 (6) CHILD KIDNAPPING UNDER § 3-503 OF THIS ARTICLE;

32 (7) CHILD ABUSE UNDER § 3-601 OF THIS ARTICLE;

33 (8) CHILD SEXUAL ABUSE UNDER § 3-602 OF THIS ARTICLE;

34 (9) A FELONIOUS VIOLATION OF TITLE 5 OF THIS ARTICLE, OR A
35 CONSPIRACY OR SOLICITATION TO COMMIT A FELONIOUS VIOLATION OF TITLE 5 OF
36 THIS ARTICLE; OR

1 (10) A CRIME OF VIOLENCE AS DEFINED IN § 14-101 OF THIS ARTICLE, OR
2 A CONSPIRACY OR SOLICITATION TO COMMIT A CRIME OF VIOLENCE AS DEFINED IN
3 § 14-101 OF THIS ARTICLE.

4 [(c)] (D) (1) [Except as provided in paragraph (2) of this subsection, a] A
5 person who violates SUBSECTION (A) OR (B) OF this section is guilty of a misdemeanor
6 and on conviction is subject to imprisonment not exceeding 5 years or a fine not
7 exceeding \$5,000 or both.

8 (2) [If an act described in subsection (a) of this section is taken in
9 connection with a proceeding involving a felonious violation of Title 5 of this article or
10 the commission of a crime of violence as defined in § 14-101 of this article, or a
11 conspiracy or solicitation to commit such a crime, a] A person who violates
12 SUBSECTION (C) OF this section is guilty of a felony and on conviction is subject to
13 imprisonment not exceeding 20 years.

14 [(d)] (E) A sentence imposed under this section may be separate from and
15 consecutive to or concurrent with a sentence for any crime based on the act
16 establishing the violation of this section.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
18 effect October 1, 2006.