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By: **Delegates Simmons, Dumais, and King**  
Introduced and read first time: January 27, 2006  
Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Committing Crime of Violence in Presence of Minor - Penalties**

3 FOR the purpose of prohibiting a person from committing a certain crime of violence  
4 while knowingly in the presence of a minor who witnesses the crime;  
5 establishing certain penalties for a violation of this Act; establishing that a  
6 sentence under this Act is separate from and consecutive to a sentence for a  
7 crime based on the act establishing a violation of this Act; providing that a  
8 person who violates this Act is guilty of the abuse of a child under 18 for certain  
9 purposes; requiring a court to grant a certain motion for a separate trial under  
10 certain circumstances; and generally relating to the commission of crimes of  
11 violence in the presence of minors.

12 BY repealing and reenacting, without amendments,  
13 Article - Courts and Judicial Proceedings  
14 Section 9-106(a)  
15 Annotated Code of Maryland  
16 (2002 Replacement Volume and 2005 Supplement)

17 BY adding to  
18 Article - Criminal Law  
19 Section 3-601.1  
20 Annotated Code of Maryland  
21 (2002 Volume and 2005 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article - Public Safety  
24 Section 5-101(a) and (c)  
25 Annotated Code of Maryland  
26 (2003 Volume and 2005 Supplement)

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

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**Article - Courts and Judicial Proceedings**

2 9-106.

3 (a) The spouse of a person on trial for a crime may not be compelled to testify  
4 as an adverse witness unless the charge involves:

5 (1) The abuse of a child under 18; or

6 (2) Assault in any degree in which the spouse is a victim if:

7 (i) The person on trial was previously charged with assault in any  
8 degree or assault and battery of the spouse;

9 (ii) The spouse was sworn to testify at the previous trial; and

10 (iii) The spouse refused to testify at the previous trial on the basis of  
11 the provisions of this section.

12

**Article - Criminal Law**

13 3-601.1.

14 (A) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN § 5-101  
15 OF THE PUBLIC SAFETY ARTICLE WHILE KNOWINGLY IN THE PRESENCE OF A MINOR  
16 WHO WITNESSES THE CRIME.

17 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR  
18 AND ON CONVICTION, IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR THE  
19 CRIME OF VIOLENCE, IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 3 YEARS OR A  
20 FINE NOT EXCEEDING \$5,000 OR BOTH.

21 (C) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE FROM  
22 AND CONSECUTIVE TO A SENTENCE FOR A CRIME BASED ON THE ACT ESTABLISHING  
23 THE VIOLATION OF THIS SECTION.

24 (D) (1) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE ABUSE  
25 OF A CHILD UNDER 18 FOR PURPOSES OF § 9-106 OF THE COURTS ARTICLE.

26 (2) A COURT SHALL GRANT A MOTION TO SEPARATE THE TRIAL OF THE  
27 VIOLATION OF THIS SECTION FROM THE TRIAL OF A CRIME OF VIOLENCE IN WHICH  
28 THE SPOUSAL PRIVILEGE GRANTED UNDER § 9-106 OF THE COURTS ARTICLE IS  
29 PROPERLY INVOKED.

30

**Article - Public Safety**

31 5-101.

32 (a) In this subtitle the following words have the meanings indicated.

33 (c) "Crime of violence" means:

- 1 (1) abduction;
- 2 (2) arson in the first degree;
- 3 (3) assault in the first or second degree;
- 4 (4) burglary in the first, second, or third degree;
- 5 (5) carjacking and armed carjacking;
- 6 (6) escape in the first degree;
- 7 (7) kidnapping;
- 8 (8) voluntary manslaughter;
- 9 (9) maiming as previously proscribed under former Article 27, § 386 of  
10 the Code;
- 11 (10) mayhem as previously proscribed under former Article 27, § 384 of  
12 the Code;
- 13 (11) murder in the first or second degree;
- 14 (12) rape in the first or second degree;
- 15 (13) robbery;
- 16 (14) robbery with a dangerous weapon;
- 17 (15) sexual offense in the first, second, or third degree;
- 18 (16) an attempt to commit any of the crimes listed in items (1) through  
19 (15) of this subsection; or
- 20 (17) assault with intent to commit any of the crimes listed in items (1)  
21 through (15) of this subsection or a crime punishable by imprisonment for more than  
22 1 year.

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