

# HOUSE BILL 368

E1  
HB 434/06 – JUD

71r0316

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By: **Delegates Simmons and Dumais**  
Introduced and read first time: February 2, 2007  
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 under a certain age who witnesses  
5 the crime; establishing certain penalties for a violation of this Act; establishing  
6 that a sentence under this Act is separate from and consecutive to a sentence  
7 for a 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 2006 Supplement)

17 BY adding to  
18 Article – Criminal Law  
19 Section 3–601.1  
20 Annotated Code of Maryland  
21 (2002 Volume and 2006 Supplement)

22 BY repealing and reenacting, without amendments,  
23 Article – Public Safety

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 5–101(a) and (c)  
2 Annotated Code of Maryland  
3 (2003 Volume and 2006 Supplement)

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

6 **Article – Courts and Judicial Proceedings**

7 9–106.

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

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

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

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

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

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

17 **Article – Criminal Law**

18 **3–601.1.**

19 (A) **A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN**  
20 **§ 5–101 OF THE PUBLIC SAFETY ARTICLE WHILE KNOWINGLY IN THE PRESENCE**  
21 **OF A MINOR UNDER THE AGE OF 16 YEARS WHO WITNESSES THE CRIME.**

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

1           **(C) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE**  
2 **FROM AND CONSECUTIVE TO A SENTENCE FOR A CRIME BASED ON THE ACT**  
3 **ESTABLISHING THE VIOLATION OF THIS SECTION.**

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

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

11                                   **Article - Public Safety**

12 5-101.

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

14           (c) "Crime of violence" means:

15                   (1) abduction;

16                   (2) arson in the first degree;

17                   (3) assault in the first or second degree;

18                   (4) burglary in the first, second, or third degree;

19                   (5) carjacking and armed carjacking;

20                   (6) escape in the first degree;

21                   (7) kidnapping;

22                   (8) voluntary manslaughter;

23                   (9) maiming as previously proscribed under former Article 27, § 386 of  
24 the Code;

25                   (10) mayhem as previously proscribed under former Article 27, § 384 of  
26 the Code;

- 1           (11) murder in the first or second degree;
- 2           (12) rape in the first or second degree;
- 3           (13) robbery;
- 4           (14) robbery with a dangerous weapon;
- 5           (15) sexual offense in the first, second, or third degree;
- 6           (16) an attempt to commit any of the crimes listed in items (1) through  
7 (15) of this subsection; or
- 8           (17) assault with intent to commit any of the crimes listed in items (1)  
9 through (15) of this subsection or a crime punishable by imprisonment for more than 1  
10 year.

11           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2007.