

# HOUSE BILL 368

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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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Committee Report: Favorable  
House action: Adopted  
Read second time: March 13, 2007

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## CHAPTER \_\_\_\_\_

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

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2002 Volume and 2006 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Public Safety  
5 Section 5–101(a) and (c)  
6 Annotated Code of Maryland  
7 (2003 Volume and 2006 Supplement)

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

10 **Article – Courts and Judicial Proceedings**

11 9–106.

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

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

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

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

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

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

21 **Article – Criminal Law**

22 **3–601.1.**

23 (A) **A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN**  
24 **§ 5–101 OF THE PUBLIC SAFETY ARTICLE WHILE KNOWINGLY IN THE PRESENCE**  
25 **OF A MINOR UNDER THE AGE OF 16 YEARS WHO WITNESSES THE CRIME.**

26 (B) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**  
27 **MISDEMEANOR AND ON CONVICTION, IN ADDITION TO ANY OTHER SENTENCE**

1 **IMPOSED FOR THE CRIME OF VIOLENCE, IS SUBJECT TO IMPRISONMENT NOT**  
2 **EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

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

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

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

13 **Article - Public Safety**

14 **5-101.**

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

16 (c) "Crime of violence" means:

17 (1) abduction;

18 (2) arson in the first degree;

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

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

21 (5) carjacking and armed carjacking;

22 (6) escape in the first degree;

23 (7) kidnapping;

24 (8) voluntary manslaughter;

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

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

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.