

HOUSE BILL 1402

E1

71r3386

By: **Delegate Frush**

Introduced and read first time: March 5, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Crime of Violence – Commission as Part of Criminal Gang Activity – Penalty**

3 FOR the purpose of prohibiting a person from threatening an individual by
4 committing a certain crime of violence with the intent of coercing the individual
5 to participate in or prevent the individual from leaving a criminal gang;
6 prohibiting a person from threatening an individual by committing a certain
7 crime of violence in a school vehicle or on school property with the intent of
8 coercing the individual to participate in or prevent the individual from leaving a
9 criminal gang; prohibiting a person from committing a certain crime of violence
10 as part of certain criminal gang–related activity; establishing certain penalties
11 for a violation of this Act; defining certain terms; and generally relating to the
12 crime of committing a crime of violence as part of criminal gang activity.

13 BY repealing and reenacting, with amendments,
14 Article – Criminal Law
15 Section 9–801, 9–802, and 9–803
16 Annotated Code of Maryland
17 (2002 Volume and 2006 Supplement)

18 BY adding to
19 Article – Criminal Law
20 Section 9–804
21 Annotated Code of Maryland
22 (2002 Volume and 2006 Supplement)

23 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Criminal Law
2 Section 14–101(a)
3 Annotated Code of Maryland
4 (2002 Volume and 2006 Supplement)

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

7 **Article – Criminal Law**

8 9–801.

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

10 (b) “Coerce” means to compel or attempt to compel another by threat of harm
11 or other adverse consequences.

12 (c) “Criminal gang” means a group or [any] **OTHER FORMAL OR INFORMAL**
13 association of three or more persons **WHOSE MEMBERS:**

14 (1) [that forms to] **INDIVIDUALLY OR COLLECTIVELY** engage in
15 criminal **GANG** activity;

16 (2) **HAVE AS ONE OF THEIR PRIMARY OBJECTIVES THE**
17 **COMMISSION OF ONE OR MORE CRIMINAL ACTIVITIES**, including acts by juveniles
18 that would be crimes if committed by adults, for the purposes of pecuniary gain or to
19 create an atmosphere of fear and intimidation either collectively or with knowledge of
20 the acts of the members of the group; and

21 [(2)] (3) [whose members] have [a] **IN** common **AN** identifying sign,
22 symbol, [or] name, **LEADER, OR PURPOSE.**

23 (D) **“CRIMINAL GANG–RELATED ACTIVITY” MEANS ANY ACTIVITY THAT**
24 **OCCURS WITH THE CRIMINAL GANG OR ADVANCES A CRIMINAL GANG PURPOSE.**

25 [(d)] (E) “Solicit” has the meaning stated in § 11–301 of this article.

26 9–802.

27 (a) (1) A person may not threaten an individual, or a friend or family
28 member of an individual, with physical violence with the intent to coerce, induce, or

1 solicit the individual to participate in or prevent the individual from leaving a criminal
2 gang.

3 **(2) A PERSON MAY NOT THREATEN AN INDIVIDUAL, OR A FRIEND**
4 **OR FAMILY MEMBER OF AN INDIVIDUAL, BY COMMITTING A CRIME OF VIOLENCE**
5 **AS DEFINED IN § 14-101 OF THIS ARTICLE WITH THE INTENT TO COERCE,**
6 **INDUCE, OR SOLICIT THE INDIVIDUAL TO PARTICIPATE IN OR PREVENT THE**
7 **INDIVIDUAL FROM LEAVING A CRIMINAL GANG.**

8 (b) **(1)** A person who violates **SUBSECTION (A)(1)** OF this section is
9 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2
10 years or a fine not exceeding \$1,000 or both.

11 **(2) A PERSON WHO VIOLATES SUBSECTION (A)(2) OF THIS**
12 **SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION, IN ADDITION TO**
13 **ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE, IS SUBJECT TO**
14 **IMPRISONMENT NOT EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR**
15 **BOTH.**

16 9-803.

17 (a) **(1)** A person may not threaten an individual, or a friend or family
18 member of an individual, with or use physical violence to coerce, induce, or solicit the
19 individual to participate in or prevent the individual from leaving a criminal gang:

20 ~~[(1)]~~ **(I)** in a school vehicle, as defined under § 11-154 of the
21 Transportation Article; or

22 ~~[(2)]~~ **(II)** in, on, or within 1,000 feet of real property owned by or
23 leased to an elementary school, secondary school, or county board of education and
24 used for elementary or secondary education.

25 **(2) A PERSON MAY NOT THREATEN AN INDIVIDUAL, OR A FRIEND**
26 **OR FAMILY MEMBER OF AN INDIVIDUAL, BY COMMITTING A CRIME OF VIOLENCE**
27 **AS DEFINED IN § 14-101 OF THIS ARTICLE TO COERCE, INDUCE, OR SOLICIT THE**
28 **INDIVIDUAL TO PARTICIPATE IN OR PREVENT THE INDIVIDUAL FROM LEAVING A**
29 **CRIMINAL GANG:**

30 **(I) IN A SCHOOL VEHICLE, AS DEFINED UNDER § 11-154 OF**
31 **THE TRANSPORTATION ARTICLE; OR**

1 **(II) IN, ON, OR WITHIN 1,000 FEET OF REAL PROPERTY**
2 **OWNED BY OR LEASED TO AN ELEMENTARY SCHOOL, SECONDARY SCHOOL, OR**
3 **COUNTY BOARD OF EDUCATION AND USED FOR ELEMENTARY OR SECONDARY**
4 **EDUCATION.**

5 (b) Subsection (a) of this section applies whether or not:

6 (1) school was in session at the time of the crime; or

7 (2) the real property was being used for purposes other than school
8 purposes at the time of the crime.

9 (c) **(1)** A person who violates **SUBSECTION (A)(1) OF** this section is guilty
10 of a misdemeanor and on conviction is subject to imprisonment not exceeding 4 years
11 or a fine not exceeding \$4,000 or both.

12 **(2) A PERSON WHO VIOLATES SUBSECTION (A)(2) OF THIS**
13 **SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION, IN ADDITION TO**
14 **ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE, IS SUBJECT TO**
15 **IMPRISONMENT NOT EXCEEDING 8 YEARS OR A FINE NOT EXCEEDING \$8,000 OR**
16 **BOTH.**

17 (d) Notwithstanding any other law, a conviction under this section may not
18 merge with a conviction under § 9–802 of this subtitle.

19 **9–804.**

20 **(A) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE, AS DEFINED IN**
21 **§ 14–101 OF THIS ARTICLE, AS PART OF CRIMINAL GANG–RELATED ACTIVITY.**

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 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

26 14–101.

27 (a) In this section, “crime of violence” means:

28 (1) abduction;

- 1 (2) arson in the first degree;
- 2 (3) kidnapping;
- 3 (4) manslaughter, except involuntary manslaughter;
- 4 (5) mayhem;
- 5 (6) maiming, as previously proscribed under former Article 27, §§ 385
6 and 386 of the Code;
- 7 (7) murder;
- 8 (8) rape;
- 9 (9) robbery under § 3-402 or § 3-403 of this article;
- 10 (10) carjacking;
- 11 (11) armed carjacking;
- 12 (12) sexual offense in the first degree;
- 13 (13) sexual offense in the second degree;
- 14 (14) use of a handgun in the commission of a felony or other crime of
15 violence;
- 16 (15) child abuse in the first degree under § 3-601 of this article;
- 17 (16) an attempt to commit any of the crimes described in items (1)
18 through (15) of this subsection;
- 19 (17) assault in the first degree;
- 20 (18) assault with intent to murder;
- 21 (19) assault with intent to rape;
- 22 (20) assault with intent to rob;
- 23 (21) assault with intent to commit a sexual offense in the first degree;
- 24 and

1 (22) assault with intent to commit a sexual offense in the second
2 degree.

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