

**Department of Legislative Services**  
Maryland General Assembly  
2007 Session

**FISCAL AND POLICY NOTE**

Senate Bill 631 (Senator Jacobs)  
Judicial Proceedings

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**Crimes - Criminal Gangs - Abatement**

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This bill defines property that is used by members of a criminal gang as a meeting place or to facilitate criminal offenses as a nuisance that may be subject to an abatement action under a statute authorizing abatement of property used for drug offenses.

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**Fiscal Summary**

**State Effect:** Any new prosecutions or actions brought under this bill could be accommodated with existing resources.

**Local Effect:** Any new prosecutions or action brought under this bill could be accommodated with existing resources of local governments.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** “Criminal gang” means a group or any association of three or more persons: (1) that forms to engage in criminal activity, including acts by juveniles that would be crimes if committed by adults, for the purposes of pecuniary gain or to create an atmosphere of fear and intimidation either collectively or with knowledge of the acts of the members of the group; and (2) whose members have a common identifying sign, symbol, or name.

Chapter 313 of 2005 created new offenses relating to criminal gang activity. A person is prohibited from threatening an individual, or a friend or family member of an individual,

with physical violence with the intent to coerce, induce, or solicit the individual to participate in or prevent the individual from leaving a criminal gang. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for two years and/or a fine of \$1,000. As a separate crime, a person is also prohibited from making such threats in a school vehicle or within 1,000 feet of a school. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for four years and/or a \$4,000 fine. A conviction for the latter offense may not merge with a conviction for the former offense. These provisions may not be construed to limit prosecution for a violation of any other provision with respect to any activity that constitutes a violation of these provisions.

An action to abate a nuisance where the property is used for controlled dangerous substance offenses may be brought in District Court by: (1) the State's Attorney of the county where the nuisance is located; (2) the county attorney or solicitor in which the nuisance is located; or (3) a community association or municipal corporation within whose boundaries the nuisance is located.

"Nuisance" is defined as property used (1) by persons who assemble for the purpose of administering illegal drugs; (2) for the manufacture or distribution of illegal drugs or controlled paraphernalia; or (3) for the storage or concealment of illegal drugs or paraphernalia in sufficient quantity to indicate an intent to manufacture or distribute.

Remedies for an abatement action available to the court include:

- ordering a tenant to vacate the property;
- ordering restitution or possession of property to the owner if both owner and tenant are parties to the action;
- ordering the owner to submit for court approval a plan of correction to ensure the property will no longer be a nuisance;
- ordering the property be demolished if not fit for habitation;
- ordering the property be sold at the owner's expense; and
- injunction or other equitable relief.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** City of Bowie, Town of Elkton, Kent County, Montgomery County, Judiciary (Administrative Office of the Courts), Office of the Attorney General, Secretary of State, State's Attorneys' Association, Department of Legislative Services

**Fiscal Note History:** First Reader - March 2, 2007  
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