

HOUSE BILL 672

E1
HB 368/07 – JUD

8lr2874

By: **Delegates Simmons, Waldstreicher, Dumais, Heller, Kramer, Lee, McComas, Ramirez, Rosenberg, and Shank**

Introduced and read first time: February 1, 2008

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 18, 2008

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 (2006 Replacement Volume and 2007 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 3–601.1
20 Annotated Code of Maryland
21 (2002 Volume and 2007 Supplement)

22 BY repealing and reenacting, without amendments,

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 Article – Public Safety
2 Section 5–101(a) and (c)
3 Annotated Code of Maryland
4 (2003 Volume and 2007 Supplement)

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

7 **Article – Courts and Judicial Proceedings**

8 9–106.

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

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

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

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

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

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

18 **Article – Criminal Law**

19 **3–601.1.**

20 (A) **A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN**
21 **§ 5–101 OF THE PUBLIC SAFETY ARTICLE WHILE KNOWINGLY IN THE PRESENCE**
22 **OF A MINOR UNDER THE AGE OF 18 YEARS WHO WITNESSES THE CRIME.**

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

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

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

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

8 Article – Public Safety

9 5-101.

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

11 (c) “Crime of violence” means:

12 (1) abduction;

13 (2) arson in the first degree;

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

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

16 (5) carjacking and armed carjacking;

17 (6) escape in the first degree;

18 (7) kidnapping;

19 (8) voluntary manslaughter;

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

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

24 (11) murder in the first or second degree;

25 (12) rape in the first or second degree;

26 (13) robbery;

27 (14) robbery with a dangerous weapon;

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1 (15) sexual offense in the first, second, or third degree;

2 (16) an attempt to commit any of the crimes listed in items (1) through
3 (15) of this subsection; or

4 (17) assault with intent to commit any of the crimes listed in items (1)
5 through (15) of this subsection or a crime punishable by imprisonment for more than 1
6 year.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.