

SENATE BILL 635

N1, E1, D3

8lr1674

By: **Senators Jacobs, Klausmeier, Mooney, Munson, and Stone**

Introduced and read first time: February 1, 2008

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Criminal Gangs – Abatement of Nuisance**

3 FOR the purpose of establishing that the use of real property by members of a certain
4 criminal gang in the furtherance of certain criminal gang activity is a nuisance
5 that may be the subject of a certain action for abatement; and generally relating
6 to the use of real property by criminal gangs.

7 BY repealing and reenacting, without amendments,
8 Article – Criminal Law
9 Section 9–801(a),(c), (d), and (f), 9–802, 9–803, and 9–804(a), (b), and (c)
10 Annotated Code of Maryland
11 (2002 Volume and 2007 Supplement)

12 BY repealing and reenacting, with amendments,
13 Article – Real Property
14 Section 14–120(a)(5)
15 Annotated Code of Maryland
16 (2003 Replacement Volume and 2007 Supplement)

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

19 **Article – Criminal Law**

20 9–801.

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

22 (c) “Criminal gang” means a group or ongoing association of three or more
23 persons whose members:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) individually or collectively engage in a pattern of criminal gang
2 activity;

3 (2) have as one of their primary objectives or activities the commission
4 of one or more underlying crimes, including acts by juveniles that would be
5 underlying crimes if committed by adults; and

6 (3) have in common an identifying sign, symbol, name, leader, or
7 purpose.

8 (d) "Pattern of criminal gang activity" means the commission of, attempted
9 commission of, conspiracy to commit, or solicitation of two or more underlying crimes
10 or acts by a juvenile that would be an underlying crime if committed by an adult,
11 provided the crimes or acts were not part of the same incident.

12 (f) "Underlying crime" means:

13 (1) a crime of violence as defined under § 14-101 of this article;

14 (2) a felony violation of § 3-203, § 3-701, § 4-503, § 5-602, § 6-103, §
15 6-109, § 6-202, § 6-203, § 6-204, § 7-104, § 7-105, § 9-302, § 9-303, or § 9-305 of this
16 article; or

17 (3) a felony violation of § 5-133 of the Public Safety Article.
18 9-802.

19 (a) A person may not threaten an individual, or a friend or family member of
20 an individual, with physical violence with the intent to coerce, induce, or solicit the
21 individual to participate in or prevent the individual from leaving a criminal gang.

22 (b) A person who violates this section is guilty of a misdemeanor and on
23 conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding
24 \$1,000 or both.

25 9-803.

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

29 (1) in a school vehicle, as defined under § 11-154 of the
30 Transportation Article; or

31 (2) in, on, or within 1,000 feet of real property owned by or leased to
32 an elementary school, secondary school, or county board of education and used for
33 elementary or secondary education.

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

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

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

5 (c) A person who violates this section is guilty of a misdemeanor and on
6 conviction is subject to imprisonment not exceeding 4 years or a fine not exceeding
7 \$4,000 or both.

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

10 9–804.

11 (a) A person may not:

12 (1) participate in a criminal gang knowing that the members of the
13 gang engage in an ongoing pattern of criminal gang activity; and

14 (2) knowingly and willfully direct or participate in the commission of
15 an underlying crime, or act by a juvenile that would be an underlying crime if
16 committed by an adult, committed for the benefit of, at the direction of, or in
17 association with a criminal gang.

18 (b) A person may not commit a violation of subsection (a) of this section
19 involving the commission of an underlying crime that results in the death of a victim.

20 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a
21 person who violates this section is guilty of a felony and on conviction is subject to
22 imprisonment not exceeding 10 years or a fine not exceeding \$100,000 or both.

23 (ii) A person who violates subsection (b) of this section is guilty
24 of a felony and on conviction is subject to imprisonment not exceeding 20 years or a
25 fine not exceeding \$100,000 or both.

26 (2) A sentence imposed under this section may be separate from and
27 consecutive to or concurrent with a sentence for any crime based on the act
28 establishing a violation of this section.

29 **Article – Real Property**

30 14–120.

31 (a) (5) “Nuisance” means a property that is used:

1 (i) 1. By persons who assemble for the specific purpose of
2 illegally administering a controlled dangerous substance;

3 [(ii)] 2. For the illegal manufacture, or distribution of:

4 [1.] A. A controlled dangerous substance; or

5 [2.] B. Controlled paraphernalia, as defined in § 5-101
6 of the Criminal Law Article; or

7 [(iii)] 3. For the illegal storage or concealment of a controlled
8 dangerous substance in sufficient quantity to reasonably indicate under all the
9 circumstances an intent to manufacture, distribute, or dispense:

10 [1.] A. A controlled dangerous substance; or

11 [2.] B. Controlled paraphernalia, as defined in § 5-101
12 of the Criminal Law Article; OR

13 (II) BY A MEMBER OF A CRIMINAL GANG, AS DEFINED IN §
14 9-801 OF THE CRIMINAL LAW ARTICLE:

15 1. IN FURTHERANCE OF A VIOLATION OF § 9-802, §
16 9-803, OR § 9-804 OF THE CRIMINAL LAW ARTICLE; OR

17 2. IN FURTHERANCE OF A PATTERN OF CRIMINAL
18 GANG ACTIVITY, AS DEFINED IN § 9-801 OF THE CRIMINAL LAW ARTICLE.

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