

HOUSE BILL 258

E1

9lr1635
CF 9lr1638

By: **Delegates Simmons, Waldstreicher, Dumais, Kramer, and Lee**

Introduced and read first time: January 29, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Committing a Crime of Violence in the Presence of a Minor**
3 **- Penalties**

4 FOR the purpose of prohibiting a person from committing a certain crime of violence
5 while knowingly in the presence of a minor under a certain age who witnesses
6 the crime; establishing certain penalties for a violation of this Act; establishing
7 that a sentence under this Act is separate from and consecutive to a sentence
8 for a crime based on the act establishing a violation of this Act; providing that a
9 person who violates this Act is guilty of the abuse of a child under 18 years for
10 certain purposes; and generally relating to the commission of crimes of violence
11 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 2008 Supplement)

17 BY adding to
18 Article - Criminal Law
19 Section 3-601.1
20 Annotated Code of Maryland
21 (2002 Volume and 2008 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article - Public Safety
24 Section 5-101(a) and (c)
25 Annotated Code of Maryland
26 (2003 Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 9–106.

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

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

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

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

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

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

14 **Article – Criminal Law**

15 **3–601.1.**

16 (A) **A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN**
17 **§ 5–101 OF THE PUBLIC SAFETY ARTICLE WHILE KNOWINGLY IN THE PRESENCE**
18 **OF A MINOR UNDER THE AGE OF 18 YEARS WHO WITNESSES THE CRIME.**

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

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

26 (D) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE ABUSE**
27 **OF A CHILD UNDER 18 YEARS FOR PURPOSES OF § 9–106 OF THE COURTS**
28 **ARTICLE.**

29 **Article – Public Safety**

30 5–101.

- 1 (a) In this subtitle the following words have the meanings indicated.
- 2 (c) “Crime of violence” means:
- 3 (1) abduction;
- 4 (2) arson in the first degree;
- 5 (3) assault in the first or second degree;
- 6 (4) burglary in the first, second, or third degree;
- 7 (5) carjacking and armed carjacking;
- 8 (6) escape in the first degree;
- 9 (7) kidnapping;
- 10 (8) voluntary manslaughter;
- 11 (9) maiming as previously proscribed under former Article 27, § 386 of
12 the Code;
- 13 (10) mayhem as previously proscribed under former Article 27, § 384 of
14 the Code;
- 15 (11) murder in the first or second degree;
- 16 (12) rape in the first or second degree;
- 17 (13) robbery;
- 18 (14) robbery with a dangerous weapon;
- 19 (15) sexual offense in the first, second, or third degree;
- 20 (16) an attempt to commit any of the crimes listed in items (1) through
21 (15) of this subsection; or
- 22 (17) assault with intent to commit any of the crimes listed in items (1)
23 through (15) of this subsection or a crime punishable by imprisonment for more than 1
24 year.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 October 1, 2009.

