

HOUSE BILL 332

D3
HB 1060/08 – JUD

9lr1913
CF 9lr1920

By: **Delegates Frank, Aumann, Bartlett, Bates, Beitzel, Boteler, Bromwell, Conaway, Dwyer, Eckardt, Elliott, Elmore, George, Haddaway, Impallaria, Jennings, Kach, Kelly, Kirk, Kramer, Krebs, McComas, McConkey, McDonough, Miller, Myers, Norman, O'Donnell, Riley, Robinson, Schuh, Schuler, Serafini, Shank, Shewell, Smigiel, Sossi, Stifler, Stocksdaile, Stull, and Walkup**

Introduced and read first time: January 30, 2009

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Victims of Crime – Burglary and Crimes of Violence – Civil Immunity**

3 FOR the purpose of providing that a person may not be liable for damages for a
4 personal injury or death of an individual who enters the person's dwelling or
5 place of business with the intent to commit certain crimes under certain
6 circumstances; defining a certain term; providing for the application of this Act;
7 and generally relating to providing certain immunity from civil liability to a
8 victim of certain crimes under certain circumstances.

9 BY adding to

10 Article – Courts and Judicial Proceedings
11 Section 5–808
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2008 Supplement)

14 BY repealing and reenacting, without amendments,

15 Article – Criminal Law
16 Section 6–202 through 6–204 and 14–101(a)
17 Annotated Code of Maryland
18 (2002 Volume and 2008 Supplement)

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

21 **Article – Courts and Judicial Proceedings**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **5-808.**

2 (A) IN THIS SECTION, "PERSON" DOES NOT INCLUDE A GOVERNMENTAL
3 ENTITY.

4 (B) SUBJECT TO THE PROVISIONS OF SUBSECTION (C) OF THIS
5 SECTION, A PERSON IS NOT LIABLE FOR DAMAGES FOR A PERSONAL INJURY OR
6 DEATH OF AN INDIVIDUAL WHO ENTERS THE PERSON'S DWELLING OR PLACE OF
7 BUSINESS WITH INTENT TO COMMIT:

8 (1) A BURGLARY IN THE FIRST, SECOND, OR THIRD DEGREE
9 UNDER § 6-202, § 6-203, OR § 6-204 OF THE CRIMINAL LAW ARTICLE; OR

10 (2) A CRIME OF VIOLENCE UNDER § 14-101 OF THE CRIMINAL
11 LAW ARTICLE.

12 (C) SUBSECTION (B) OF THIS SECTION DOES NOT APPLY TO A PERSON
13 WHO ACTS WITH MALICE OR GROSS NEGLIGENCE.

14 (D) THIS SECTION DOES NOT LIMIT OR ABROGATE ANY IMMUNITY FROM
15 CIVIL LIABILITY OR DEFENSE AVAILABLE TO A PERSON UNDER ANY OTHER
16 PROVISION OF THE CODE OR AT COMMON LAW.

17 **Article - Criminal Law**

18 **6-202.**

19 (a) A person may not break and enter the dwelling of another with the intent
20 to commit theft or a crime of violence.

21 (b) A person who violates this section is guilty of the felony of burglary in the
22 first degree and on conviction is subject to imprisonment not exceeding 20 years.

23 **6-203.**

24 (a) A person may not break and enter the storehouse of another with the
25 intent to commit theft, a crime of violence, or arson in the second degree.

26 (b) A person may not break and enter the storehouse of another with the
27 intent to steal, take, or carry away a firearm.

28 (c) A person who violates this section is guilty of the felony of burglary in the
29 second degree and on conviction is subject to:

30 (1) for a violation of subsection (a) of this section, imprisonment not
31 exceeding 15 years; and

(2) for a violation of subsection (b) of this section, imprisonment not exceeding 20 years or a fine not exceeding \$10,000 or both.

6–204.

(a) A person may not break and enter the dwelling of another with the intent to commit a crime.

(b) A person who violates this section is guilty of the felony of burglary in the third degree and on conviction is subject to imprisonment not exceeding 10 years.

14–101.

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

- (1) abduction;
- (2) arson in the first degree;
- (3) kidnapping;
- (4) manslaughter, except involuntary manslaughter;
- (5) mayhem;
- (6) maiming, as previously proscribed under former Article 27, §§ 385 and 386 of the Code;
- (7) murder;
- (8) rape;
- (9) robbery under § 3–402 or § 3–403 of this article;
- (10) carjacking;
- (11) armed carjacking;
- (12) sexual offense in the first degree;
- (13) sexual offense in the second degree;
- (14) use of a handgun in the commission of a felony or other crime of violence;
- (15) child abuse in the first degree under § 3–601 of this article;

1 (16) sexual abuse of a minor under § 3–602 of this article if:

2 (i) the victim is under the age of 13 years and the offender is an
3 adult at the time of the offense; and

4 (ii) the offense involved:

5 1. vaginal intercourse, as defined in § 3–301 of this
6 article;

7 2. a sexual act, as defined in § 3–301 of this article;

8 3. an act in which a part of the offender's body
9 penetrates, however slightly, into the victim's genital opening or anus; or

10 4. the intentional touching, not through the clothing, of
11 the victim's or the offender's genital, anal, or other intimate area for sexual arousal,
12 gratification, or abuse;

13 (17) an attempt to commit any of the crimes described in items (1)
14 through (16) of this subsection;

15 (18) continuing course of conduct with a child under § 3–315 of this
16 article;

17 (19) assault in the first degree;

18 (20) assault with intent to murder;

19 (21) assault with intent to rape;

20 (22) assault with intent to rob;

21 (23) assault with intent to commit a sexual offense in the first degree;
22 and

23 (24) assault with intent to commit a sexual offense in the second
24 degree.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
26 construed to apply only prospectively and may not be applied or interpreted to have
27 any effect on or application to any case in which the cause of action arises before the
28 effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 October 1, 2009.