

# HOUSE BILL 1224

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By: **Delegate Simmons**

Introduced and read first time: February 13, 2009

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Actively Participating in a Criminal Gang – Penalties**

3 FOR the purpose of prohibiting a person from actively participating in a criminal  
4 gang, with a certain intent, knowing that the members of the gang engage in an  
5 ongoing pattern of criminal gang activity; establishing penalties; and generally  
6 relating to criminal gangs.

7 BY repealing and reenacting, without amendments,  
8 Article – Criminal Law  
9 Section 9–801  
10 Annotated Code of Maryland  
11 (2002 Volume and 2008 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article – Criminal Law  
14 Section 9–804  
15 Annotated Code of Maryland  
16 (2002 Volume and 2008 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 (b) “Coerce” means to compel or attempt to compel another by threat of harm  
23 or other adverse consequences.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (c) "Criminal gang" means a group or ongoing association of three or more  
2 persons whose members:

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

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

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

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

14 (e) "Solicit" has the meaning stated in § 11-301 of this article.

15 (f) "Underlying crime" means:

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

17 (2) a felony violation of § 3-203, § 3-701, § 4-503, § 5-602, § 6-103, §  
18 6-109, § 6-202, § 6-203, § 6-204, § 7-104, § 7-105, § 9-302, § 9-303, or § 9-305 of  
19 this article; or

20 (3) a felony violation of § 5-133 of the Public Safety Article.  
21 9-804.

22 (a) A person may not:

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

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

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

31 (c) **A PERSON MAY NOT ACTIVELY PARTICIPATE IN A CRIMINAL GANG,**  
32 **WITH THE INTENT TO AID AND ABET OR PROMOTE THE OBJECTIVES OF THE**

1 **CRIMINAL GANG, KNOWING THAT THE MEMBERS OF THE GANG ENGAGE IN AN**  
2 **ONGOING PATTERN OF CRIMINAL GANG ACTIVITY.**

3 [(c)] (D) (1) (i) Except as provided in subparagraph (ii) **AND (III)** of  
4 this paragraph, a person who violates this section is guilty of a felony and on  
5 conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding  
6 \$100,000 or both.

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

10 (III) **A PERSON WHO VIOLATES SUBSECTION (C) OF THIS**  
11 **SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO**  
12 **IMPRISONMENT NOT EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$15,000**  
13 **OR BOTH.**

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

17 [(d)] (E) A person may be charged with a violation of this section only by  
18 indictment, criminal information, or petition alleging a delinquent act.

19 [(e)] (F) (1) The Attorney General, at the request of the State's Attorney  
20 for a county in which a violation or an act establishing a violation of this section  
21 occurs, may:

22 (i) aid in the investigation of the violation or act; and

23 (ii) prosecute the violation or act.

24 (2) In exercising authority under paragraph (1) of this subsection, the  
25 Attorney General has all the powers and duties of a State's Attorney, including the use  
26 of the grand jury in the county, to prosecute the violation.

27 (3) Notwithstanding any other provision of law, in circumstances in  
28 which violations of this section are alleged to have been committed in more than one  
29 county, the respective State's Attorney of each county, or the Attorney General, may  
30 join the causes of action in a single complaint with the consent of each State's Attorney  
31 having jurisdiction over an offense sought to be joined.

32 [(f)] (G) Notwithstanding any other provision of law and provided at least  
33 one criminal gang activity of a criminal gang allegedly occurred in the county in which  
34 a grand jury is sitting, the grand jury may issue subpoenas, summon witnesses, and  
35 otherwise conduct an investigation of the alleged criminal gang's activities and  
36 offenses in other counties.

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