

# HOUSE BILL 185

E1  
HB 478/13 – JUD

4lr1606

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By: **Delegates Simmons and Kramer**  
Introduced and read first time: January 15, 2014  
Assigned to: Judiciary

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## 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 when the person knows or reasonably should know that a minor of a certain age  
6 is present in a residence; establishing certain circumstances under which a  
7 minor is present; establishing a certain enhanced penalty for a violation of this  
8 Act; authorizing a court to impose an enhanced penalty if the State's Attorney  
9 provides certain notice to the defendant in a certain manner and if certain  
10 elements have been proven beyond a reasonable doubt; authorizing the State to  
11 include a certain notice in a certain indictment or information; providing that a  
12 penalty imposed under this Act shall be separate from and consecutive to a  
13 sentence for any crime based on the act establishing the violation of this Act;  
14 and generally relating to the commission of crimes of violence in the presence of  
15 minors.

16 BY repealing and reenacting, without amendments,  
17 Article – Courts and Judicial Proceedings  
18 Section 9–106(a)  
19 Annotated Code of Maryland  
20 (2013 Replacement Volume and 2013 Supplement)

21 BY adding to  
22 Article – Criminal Law  
23 Section 3–601.1  
24 Annotated Code of Maryland  
25 (2012 Replacement Volume and 2013 Supplement)

26 BY repealing and reenacting, without amendments,  
27 Article – Public Safety  
28 Section 5–101(a) and (c)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland  
2 (2011 Replacement Volume and 2013 Supplement)

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

5 **Article – Courts and Judicial Proceedings**

6 9–106.

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

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

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

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

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

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

16 **Article – Criminal Law**

17 **3–601.1.**

18 (A) (1) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS  
19 DEFINED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE WHEN THE PERSON  
20 KNOWS OR REASONABLY SHOULD KNOW THAT A MINOR WHO IS AT LEAST 2  
21 YEARS OLD IS PRESENT IN A RESIDENCE.

22 (2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION,  
23 A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE  
24 CRIME OF VIOLENCE.

25 (B) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO  
26 IMPRISONMENT NOT EXCEEDING 5 YEARS IN ADDITION TO ANY OTHER  
27 SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE.

28 (C) A COURT MAY IMPOSE AN ENHANCED PENALTY UNDER SUBSECTION  
29 (B) OF THIS SECTION IF:

1           (1) AT LEAST 30 DAYS BEFORE TRIAL IN THE CIRCUIT COURT,  
 2 AND 15 DAYS BEFORE TRIAL IN THE DISTRICT COURT, THE STATE'S ATTORNEY  
 3 NOTIFIES THE DEFENDANT IN WRITING OF THE STATE'S INTENTION TO SEEK  
 4 THE ENHANCED PENALTY; AND

5           (2) THE ELEMENTS OF SUBSECTION (A)(1) OF THIS SECTION HAVE  
 6 BEEN PROVEN BEYOND A REASONABLE DOUBT.

7           (D) IF THE DEFENDANT IS CHARGED BY INDICTMENT OR CRIMINAL  
 8 INFORMATION, THE STATE MAY INCLUDE THE NOTICE REQUIRED UNDER  
 9 SUBSECTION (C)(1) OF THIS SECTION IN THE INDICTMENT OR INFORMATION.

10          (E) AN ENHANCED PENALTY IMPOSED UNDER THIS SECTION SHALL BE  
 11 SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON  
 12 THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

Article – Public Safety

14 5-101.

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

16 (c) "Crime of violence" means:

- 17 (1) abduction;
- 18 (2) arson in the first degree;
- 19 (3) assault in the first or second degree;
- 20 (4) burglary in the first, second, or third degree;
- 21 (5) carjacking and armed carjacking;
- 22 (6) escape in the first degree;
- 23 (7) kidnapping;
- 24 (8) voluntary manslaughter;
- 25 (9) maiming as previously proscribed under former Article 27, § 386 of  
 26 the Code;
- 27 (10) mayhem as previously proscribed under former Article 27, § 384 of  
 28 the Code;

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- 1                   (11) murder in the first or second degree;
- 2                   (12) rape in the first or second degree;
- 3                   (13) robbery;
- 4                   (14) robbery with a dangerous weapon;
- 5                   (15) sexual offense in the first, second, or third degree;
- 6                   (16) an attempt to commit any of the crimes listed in items (1) through  
7 (15) of this subsection; or
- 8                   (17) assault with intent to commit any of the crimes listed in items (1)  
9 through (15) of this subsection or a crime punishable by imprisonment for more than 1  
10 year.

11                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
12 October 1, 2014.