

HOUSE BILL 359

E1, D4

7lr0869

By: **Delegates Angel, Anderson, Bromwell, Carr, Davis, Dumais, Gutierrez, Hettleman, Hill, C. Howard, Korman, Lierman, Luedtke, Malone, McCray, McIntosh, Moon, Oaks, Pena–Melnyk, Queen, Sydnor, M. Washington, C. Wilson, and Lewis**

Introduced and read first time: January 25, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Child Neglect – Reporting – Commission of Crime of Violence in Presence of**
3 **Minor**

4 FOR the purpose of altering the definition of “neglect” in certain provisions of law governing
5 the reporting and investigation of suspected child abuse or neglect; establishing that
6 neglect includes an act that would constitute a violation of a provision that prohibits
7 a person from committing a crime of violence when the person knows or reasonably
8 should know that a minor of a certain age is present in a residence; and generally
9 relating to the commission of a crime of violence in the presence of a minor and child
10 neglect.

11 BY repealing and reenacting, without amendments,
12 Article – Criminal Law
13 Section 3–601.1
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2016 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Family Law
18 Section 5–701(s)
19 Annotated Code of Maryland
20 (2012 Replacement Volume and 2016 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Family Law
23 Section 5–704
24 Annotated Code of Maryland
25 (2012 Replacement Volume and 2016 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 MARYLAND,
2 That the Laws of Maryland read as follows:

3 **Article – Criminal Law**

4 3–601.1.

5 (a) (1) A person may not commit a crime of violence as defined in § 5–101 of
6 the Public Safety Article when the person knows or reasonably should know that a minor
7 who is at least 2 years old is present in a residence.

8 (2) For the purposes of paragraph (1) of this subsection, a minor is present
9 if the minor is within sight or hearing of the crime of violence.

10 (b) A person who violates this section is subject to imprisonment not exceeding 5
11 years in addition to any other sentence imposed for the crime of violence.

12 (c) A court may impose an enhanced penalty under subsection (b) of this section
13 if:

14 (1) at least 30 days before trial in the circuit court, and 15 days before trial
15 in the District Court, the State’s Attorney notifies the defendant in writing of the State’s
16 intention to seek the enhanced penalty; and

17 (2) the elements of subsection (a)(1) of this section have been proven
18 beyond a reasonable doubt.

19 (d) If the defendant is charged by indictment or criminal information, the State
20 may include the notice required under subsection (c)(1) of this section in the indictment or
21 information.

22 (e) An enhanced penalty imposed under this section shall be separate from and
23 consecutive to a sentence for any crime based on the act establishing the violation of this
24 section.

25 **Article – Family Law**

26 5–701.

27 (s) “Neglect” means:

28 (1) the leaving of a child unattended or other failure to give proper care
29 and attention to a child by any parent or other person who has permanent or temporary
30 care or custody or responsibility for supervision of the child under circumstances that
31 indicate:

1 [(1)] (I) that the child's health or welfare is harmed or placed at
2 substantial risk of harm; or

3 [(2)] (II) mental injury to the child or a substantial risk of mental injury;
4 **OR**

5 **(2) AN ACT THAT CONSTITUTES A VIOLATION OF § 3-601.1 OF THE**
6 **CRIMINAL LAW ARTICLE, WHETHER OR NOT THE PERSON WHO COMMITTED THE**
7 **ACT IS CHARGED WITH A CRIME.**

8 5-704.

9 (a) Notwithstanding any other provision of law, including any law on privileged
10 communications, each health practitioner, police officer, educator, or human service
11 worker, acting in a professional capacity in this State:

12 (1) who has reason to believe that a child has been subjected to abuse or
13 neglect, shall notify the local department or the appropriate law enforcement agency; and

14 (2) if acting as a staff member of a hospital, public health agency, child care
15 institution, juvenile detention center, school, or similar institution, shall immediately
16 notify and give all information required by this section to the head of the institution or the
17 designee of the head.

18 (b) (1) An individual who notifies the appropriate authorities under subsection
19 (a) of this section shall make:

20 (i) an oral report, by telephone or direct communication, as soon as
21 possible to the local department or appropriate law enforcement agency; and

22 (ii) a written report:

23 1. to the local department not later than 48 hours after the
24 contact, examination, attention, or treatment that caused the individual to believe that the
25 child had been subjected to abuse or neglect; and

26 2. with a copy to the local State's Attorney.

27 (2) (i) An agency to which an oral report of suspected abuse or neglect
28 is made under paragraph (1) of this subsection shall immediately notify the other agency.

29 (ii) This paragraph does not prohibit a local department and an
30 appropriate law enforcement agency from agreeing to cooperative arrangements.

31 (c) Insofar as is reasonably possible, an individual who makes a report under this
32 section shall include in the report the following information:

- 1 (1) the name, age, and home address of the child;
- 2 (2) the name and home address of the child's parent or other person who is
3 responsible for the child's care;
- 4 (3) the whereabouts of the child;
- 5 (4) the nature and extent of the abuse or neglect of the child, including any
6 evidence or information available to the reporter concerning possible previous instances of
7 abuse or neglect; and
- 8 (5) any other information that would help to determine:
- 9 (i) the cause of the suspected abuse or neglect; and
- 10 (ii) the identity of any individual responsible for the abuse or neglect.

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 October 1, 2017.