

# HOUSE BILL 185

E1  
HB 478/13 – JUD

4r1606  
CF SB 683

---

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

---

Committee Report: Favorable  
House action: Adopted  
Read second time: March 4, 2014

---

## CHAPTER \_\_\_\_\_

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

---

### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland  
2 (2012 Replacement Volume and 2013 Supplement)

3 BY repealing and reenacting, without amendments,  
4 Article – Public Safety  
5 Section 5–101(a) and (c)  
6 Annotated Code of Maryland  
7 (2011 Replacement Volume and 2013 Supplement)

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

10 **Article – Courts and Judicial Proceedings**

11 9–106.

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

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

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

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

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

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

21 **Article – Criminal Law**

22 **3–601.1.**

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

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

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

4           **(C) A COURT MAY IMPOSE AN ENHANCED PENALTY UNDER SUBSECTION**  
5 **(B) OF THIS SECTION IF:**

6                   **(1) AT LEAST 30 DAYS BEFORE TRIAL IN THE CIRCUIT COURT,**  
7 **AND 15 DAYS BEFORE TRIAL IN THE DISTRICT COURT, THE STATE'S ATTORNEY**  
8 **NOTIFIES THE DEFENDANT IN WRITING OF THE STATE'S INTENTION TO SEEK**  
9 **THE ENHANCED PENALTY; AND**

10                   **(2) THE ELEMENTS OF SUBSECTION (A)(1) OF THIS SECTION HAVE**  
11 **BEEN PROVEN BEYOND A REASONABLE DOUBT.**

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

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

#### 18   Article – Public Safety

19   5–101.

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

21           (c) “Crime of violence” means:

22                   (1) abduction;

23                   (2) arson in the first degree;

24                   (3) assault in the first or second degree;

25                   (4) burglary in the first, second, or third degree;

26                   (5) carjacking and armed carjacking;

27                   (6) escape in the first degree;

28                   (7) kidnapping;

29                   (8) voluntary manslaughter;

1 (9) maiming as previously proscribed under former Article 27, § 386 of  
2 the Code;

3 (10) mayhem as previously proscribed under former Article 27, § 384 of  
4 the Code;

5 (11) murder in the first or second degree;

6 (12) rape in the first or second degree;

7 (13) robbery;

8 (14) robbery with a dangerous weapon;

9 (15) sexual offense in the first, second, or third degree;

10 (16) an attempt to commit any of the crimes listed in items (1) through  
11 (15) of this subsection; or

12 (17) assault with intent to commit any of the crimes listed in items (1)  
13 through (15) of this subsection or a crime punishable by imprisonment for more than 1  
14 year.

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

Approved:

---

Governor.

---

Speaker of the House of Delegates.

---

President of the Senate.