

HOUSE BILL 306

E1

4lr0160
CF SB 337

By: **The Speaker (By Request – Administration) and Delegates Simmons, Anderson, Arora, Carr, Carter, Clippinger, Dumais, Fraser-Hidalgo, Frick, Glenn, Hixson, Jones, Kaiser, Lee, Luedtke, A. Miller, Reznik, Rosenberg, Swain, Valderrama, Valentino-Smith, Waldstreicher, M. Washington, ~~and Zucker~~ Zucker, and Kramer**

Introduced and read first time: January 21, 2014

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2014

CHAPTER _____

1 AN ACT concerning

2 ~~Criminal Law – Crimes Committed~~ **Crimes – Committing a Crime of Violence**
3 **in the Presence of a Minor – Penalties**

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

17 BY repealing and reenacting, without amendments,

18 Article – Courts and Judicial Proceedings

19 Section 9-106(a)

20 Annotated Code of Maryland

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 (2013 Replacement Volume and 2013 Supplement)

2 BY adding to

3 Article – Criminal Law

4 Section 3–601.1

5 Annotated Code of Maryland

6 (2012 Replacement Volume and 2013 Supplement)

7 BY repealing and reenacting, without amendments,

8 Article – Public Safety

9 Section 5–101(a) and (c)

10 Annotated Code of Maryland

11 (2011 Replacement Volume and 2013 Supplement)

12 ~~BY repealing and reenacting, without amendments,~~

13 ~~Article – Criminal Procedure~~

14 ~~Section 6–233~~

15 ~~Annotated Code of Maryland~~

16 ~~(2008 Replacement Volume and 2013 Supplement)~~

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

19 **Article – Courts and Judicial Proceedings**

20 9–106.

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

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

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

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

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

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

30 **Article – Criminal Law**

31 **3–601.1.**

1 5–101.

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

3 (c) “Crime of violence” means:

4 (1) abduction;

5 (2) arson in the first degree;

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

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

8 (5) carjacking and armed carjacking;

9 (6) escape in the first degree;

10 (7) kidnapping;

11 (8) voluntary manslaughter;

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

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

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

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

18 (13) robbery;

19 (14) robbery with a dangerous weapon;

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

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

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

26

1 ~~6-233.~~

2 ~~(a) In this section, "domestically related crime" means a crime committed by~~
3 ~~a defendant against a victim who is a person eligible for relief, as defined in § 4-501 of~~
4 ~~the Family Law Article, or who had a sexual relationship with the defendant within 12~~
5 ~~months before the commission of the crime.~~

6 ~~(b) (1) If a defendant is convicted of or receives a probation before~~
7 ~~judgment disposition for a crime, on request of the State's Attorney, the court shall~~
8 ~~make a finding of fact, based on evidence produced at trial, as to whether the crime is~~
9 ~~a domestically related crime.~~

10 ~~(2) The State has the burden of proving by a preponderance of the~~
11 ~~evidence that the crime is a domestically related crime.~~

12 ~~(c) If the court finds that the crime is a domestically related crime under~~
13 ~~subsection (b) of this section, that finding shall become part of the court record for~~
14 ~~purposes of reporting to the Criminal Justice Information System Central Repository~~
15 ~~under § 10-215 of this article.~~

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

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.