

SENATE BILL 337

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4lr0159
CF 4lr0160

By: **The President (By Request – Administration)**

Introduced and read first time: January 17, 2014

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Crimes Committed in the Presence of a Minor – Penalties**

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

15 BY adding to

16 Article – Criminal Law
17 Section 3–601.1
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2013 Supplement)

20 BY repealing and reenacting, without amendments,

21 Article – Public Safety
22 Section 5–101(a) and (c)
23 Annotated Code of Maryland
24 (2011 Replacement Volume and 2013 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article – Criminal Procedure
27 Section 6–233
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2008 Replacement Volume and 2013 Supplement)

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

Article – Criminal Law

3–601.1.

(A) (1) THIS SUBSECTION APPLIES ONLY IF, AT THE TIME THE CRIME WAS COMMITTED, THE DEFENDANT OR THE VICTIM HAD PERMANENT CUSTODY, TEMPORARY CUSTODY, TEMPORARY CARE, OR RESPONSIBILITY FOR THE SUPERVISION OF THE MINOR.

(2) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE IF:

(I) THE CRIME IS A DOMESTICALLY RELATED CRIME AS DEFINED IN § 6–233 OF THE CRIMINAL PROCEDURE ARTICLE; AND

(II) THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT A MINOR IS PRESENT.

(3) FOR THE PURPOSES OF THIS SUBSECTION, A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE CRIME OR IS OTHERWISE ABLE TO PERCEIVE THE CRIME.

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

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

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

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

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

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

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

7 **Article – Criminal Procedure**

8 6–233.

9 (a) In this section, “domestically related crime” means a crime committed by
10 a defendant against a victim who is a person eligible for relief, as defined in § 4–501 of
11 the Family Law Article, or who had a sexual relationship with the defendant within 12
12 months before the commission of the crime.

13 (b) (1) If a defendant is convicted of or receives a probation before
14 judgment disposition for a crime, on request of the State’s Attorney, the court shall
15 make a finding of fact, based on evidence produced at trial, as to whether the crime is
16 a domestically related crime.

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

19 (c) If the court finds that the crime is a domestically related crime under
20 subsection (b) of this section, that finding shall become part of the court record for
21 purposes of reporting to the Criminal Justice Information System Central Repository
22 under § 10–215 of this article.

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