

HOUSE BILL 672

E1
HB 368/07 – JUD

8lr2874

By: **Delegates Simmons, Waldstreicher, Dumais, Heller, Kramer, Lee, McComas, Ramirez, Rosenberg, and Shank**

Introduced and read first time: February 1, 2008

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Committing Crime of Violence in Presence of Minor – Penalties**

3 FOR the purpose of prohibiting a person from committing a certain crime of violence
4 while knowingly in the presence of a minor under a certain age who witnesses
5 the crime; establishing certain penalties for a violation of this Act; establishing
6 that a sentence under this Act is separate from and consecutive to a sentence
7 for a crime based on the act establishing a violation of this Act; providing that a
8 person who violates this Act is guilty of the abuse of a child under 18 for certain
9 purposes; requiring a court to grant a certain motion for a separate trial under
10 certain circumstances; and generally relating to the commission of crimes of
11 violence in the presence of minors.

12 BY repealing and reenacting, without amendments,
13 Article – Courts and Judicial Proceedings
14 Section 9–106(a)
15 Annotated Code of Maryland
16 (2006 Replacement Volume and 2007 Supplement)

17 BY adding to
18 Article – Criminal Law
19 Section 3–601.1
20 Annotated Code of Maryland
21 (2002 Volume and 2007 Supplement)

22 BY repealing and reenacting, without amendments,
23 Article – Public Safety
24 Section 5–101(a) and (c)
25 Annotated Code of Maryland
26 (2003 Volume and 2007 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
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 9–106.

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

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

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

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

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

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

14 **Article – Criminal Law**

15 **3–601.1.**

16 (A) **A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN**
17 **§ 5–101 OF THE PUBLIC SAFETY ARTICLE WHILE KNOWINGLY IN THE PRESENCE**
18 **OF A MINOR UNDER THE AGE OF 18 YEARS WHO WITNESSES THE CRIME.**

19 (B) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A**
20 **MISDEMEANOR AND ON CONVICTION, IN ADDITION TO ANY OTHER SENTENCE**
21 **IMPOSED FOR THE CRIME OF VIOLENCE, IS SUBJECT TO IMPRISONMENT NOT**
22 **EXCEEDING 3 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH.**

23 (C) **A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE**
24 **FROM AND CONSECUTIVE TO A SENTENCE FOR A CRIME BASED ON THE ACT**
25 **ESTABLISHING THE VIOLATION OF THIS SECTION.**

26 (D) (1) **A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE**
27 **ABUSE OF A CHILD UNDER 18 FOR PURPOSES OF § 9–106 OF THE COURTS**
28 **ARTICLE.**

29 (2) **A COURT SHALL GRANT A MOTION TO SEPARATE THE TRIAL**
30 **OF THE VIOLATION OF THIS SECTION FROM THE TRIAL OF A CRIME OF**

1 **VIOLENCE IN WHICH THE SPOUSAL PRIVILEGE GRANTED UNDER § 9-106 OF THE**
2 **COURTS ARTICLE IS PROPERLY INVOKED.**

3 **Article - Public Safety**

4 5-101.

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

6 (c) "Crime of violence" means:

7 (1) abduction;

8 (2) arson in the first degree;

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

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

11 (5) carjacking and armed carjacking;

12 (6) escape in the first degree;

13 (7) kidnapping;

14 (8) voluntary manslaughter;

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

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

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

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

21 (13) robbery;

22 (14) robbery with a dangerous weapon;

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

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

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

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2008.