

SENATE BILL 742

E1
SB 248/13 – JPR

4lr2899
CF HB 807

By: **Senators Forehand, Shank, and Stone**
Introduced and read first time: January 31, 2014
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 26, 2014

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Burglary in the First Degree – Home Invasion and ~~Armed~~**
3 **Home Invasion**

4 FOR the purpose of ~~prohibiting a person from breaking and entering the dwelling of~~
5 ~~another and committing a crime of violence against a person in the dwelling;~~
6 ~~prohibiting a person from employing or displaying a dangerous weapon during~~
7 ~~the commission of a home invasion; establishing a unit of prosecution for a~~
8 ~~certain violation; establishing certain criminal penalties; authorizing a sentence~~
9 ~~imposed under this Act to be separate from and consecutive to a sentence for~~
10 ~~any other crime that arises from the conduct underlying the home invasion or~~
11 ~~armed home invasion; defining certain terms; altering a certain definition;~~
12 increasing the maximum penalty of imprisonment for breaking and entering the
13 dwelling of another with the intent to commit a crime of violence; designating a
14 certain offense to be the felony of home invasion; and generally relating to the
15 prohibition against home invasion home invasion.

16 ~~BY adding to~~
17 ~~Article – Criminal Law~~
18 ~~Section 3-1001 and 3-1002 to be under the new subtitle “Subtitle 10. Home~~
19 ~~Invasion”~~
20 ~~Annotated Code of Maryland~~
21 ~~(2012 Replacement Volume and 2013 Supplement)~~

22 BY repealing and reenacting, with amendments,
23 Article – Criminal Law

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 Section ~~14-101(a)~~ 6-202
 2 Annotated Code of Maryland
 3 (2012 Replacement Volume and 2013 Supplement)

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

6 Article – Criminal Law

7 ~~SUBTITLE 10. HOME INVASION.~~

8 ~~§ 1001.~~

9 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
 10 ~~INDICATED.~~

11 ~~(B) “BREAK” RETAINS ITS JUDICIALLY DETERMINED MEANING EXCEPT~~
 12 ~~TO THE EXTENT THAT ITS MEANING IS EXPRESSLY OR IMPLIEDLY CHANGED IN~~
 13 ~~THIS SUBTITLE.~~

14 ~~(C) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14-101 OF~~
 15 ~~THIS ARTICLE.~~

16 ~~(D) “DWELLING” RETAINS ITS JUDICIALLY DETERMINED MEANING~~
 17 ~~EXCEPT TO THE EXTENT THAT ITS MEANING IS EXPRESSLY OR IMPLIEDLY~~
 18 ~~CHANGED IN THIS SUBTITLE.~~

19 ~~(E) “ENTER” RETAINS ITS JUDICIALLY DETERMINED MEANING EXCEPT~~
 20 ~~TO THE EXTENT THAT ITS MEANING IS EXPRESSLY OR IMPLIEDLY CHANGED IN~~
 21 ~~THIS SUBTITLE.~~

22 ~~§ 1002.~~

23 ~~(A) A PERSON MAY NOT:~~

24 ~~(1) BREAK AND ENTER THE DWELLING OF ANOTHER IF THE~~
 25 ~~PERSON KNOWS OR HAS REASON TO KNOW THAT ONE OR MORE OTHER PERSONS~~
 26 ~~ARE PRESENT IN THE DWELLING; AND~~

27 ~~(2) COMMIT A CRIME OF VIOLENCE AGAINST A PERSON IN THE~~
 28 ~~DWELLING.~~

29 ~~(B) A PERSON MAY NOT EMPLOY OR DISPLAY A DANGEROUS WEAPON~~
 30 ~~DURING THE COMMISSION OF A HOME INVASION UNDER SUBSECTION (A) OF~~
 31 ~~THIS SECTION.~~

1 ~~(C) THE UNIT OF PROSECUTION FOR A VIOLATION OF THIS SECTION IS~~
2 ~~BASED ON THE NUMBER OF PERSONS IN THE DWELLING AT THE TIME OF THE~~
3 ~~HOME INVASION.~~

4 ~~(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A FELONY~~
5 ~~AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 30 YEARS.~~

6 ~~(E) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE~~
7 ~~FROM AND CONSECUTIVE TO A SENTENCE FOR ANY OTHER CRIME THAT ARISES~~
8 ~~FROM THE CONDUCT UNDERLYING THE HOME INVASION VIOLENT CRIME OR~~
9 ~~ARMED HOME INVASION VIOLENT CRIME.~~

10 ~~14-101.~~

11 ~~(a) In this section, "crime of violence" means:~~

12 ~~(1) abduction;~~

13 ~~(2) arson in the first degree;~~

14 ~~(3) kidnapping;~~

15 ~~(4) manslaughter, except involuntary manslaughter;~~

16 ~~(5) mayhem;~~

17 ~~(6) maiming, as previously proscribed under former Article 27, §§ 385~~
18 ~~and 386 of the Code;~~

19 ~~(7) murder;~~

20 ~~(8) rape;~~

21 ~~(9) robbery under § 3-402 or § 3-403 of this article;~~

22 ~~(10) carjacking;~~

23 ~~(11) armed carjacking;~~

24 ~~(12) sexual offense in the first degree;~~

25 ~~(13) sexual offense in the second degree;~~

26 ~~(14) use of a handgun in the commission of a felony or other crime of~~
27 ~~violence;~~

- 1 ~~(15) child abuse in the first degree under § 3-601 of this article;~~
- 2 ~~(16) sexual abuse of a minor under § 3-602 of this article if:~~
- 3 ~~(i) the victim is under the age of 13 years and the offender is an~~
4 ~~adult at the time of the offense; and~~
- 5 ~~(ii) the offense involved:~~
- 6 ~~1. vaginal intercourse, as defined in § 3-301 of this~~
7 ~~article;~~
- 8 ~~2. a sexual act, as defined in § 3-301 of this article;~~
- 9 ~~3. an act in which a part of the offender's body~~
10 ~~penetrates, however slightly, into the victim's genital opening or anus; or~~
- 11 ~~4. the intentional touching, not through the clothing, of~~
12 ~~the victim's or the offender's genital, anal, or other intimate area for sexual arousal,~~
13 ~~gratification, or abuse;~~
- 14 ~~(17) an attempt to commit any of the crimes described in items (1)~~
15 ~~through (16) of this subsection;~~
- 16 ~~(18) continuing course of conduct with a child under § 3-315 of this~~
17 ~~article;~~
- 18 ~~(19) assault in the first degree;~~
- 19 ~~(20) assault with intent to murder;~~
- 20 ~~(21) assault with intent to rape;~~
- 21 ~~(22) assault with intent to rob;~~
- 22 ~~**(23) HOME INVASION UNDER § 3-1002(A) OF THIS ARTICLE;**~~
- 23 ~~**(24) ARMED HOME INVASION UNDER § 3-1002(B) OF THIS**~~
24 ~~**ARTICLE;**~~
- 25 ~~[(23)] **(25)** assault with intent to commit a sexual offense in the first~~
26 ~~degree; and~~
- 27 ~~[(24)] **(26)** assault with intent to commit a sexual offense in the second~~
28 ~~degree.~~

1 6-202.

2 (a) A person may not break and enter the dwelling of another with the intent
3 to commit theft [or a crime of violence].

4 **(B) A PERSON MAY NOT BREAK AND ENTER THE DWELLING OF**
5 **ANOTHER WITH THE INTENT TO COMMIT A CRIME OF VIOLENCE.**

6 ~~[(b)]~~ (C) A person who violates SUBSECTION (A) OF this section is guilty of
7 the felony of burglary in the first degree and on conviction is subject to imprisonment
8 not exceeding 20 years.

9 **(D) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS**
10 **GUILTY OF THE FELONY OF HOME INVASION AND ON CONVICTION IS SUBJECT**
11 **TO IMPRISONMENT NOT EXCEEDING 25 YEARS.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.