

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

House Bill 185
Judiciary

(Delegates Simmons and Kramer)

Judicial Proceedings

Crimes - Committing a Crime of Violence in the Presence of a Minor - Penalties

This bill prohibits a person from committing a crime of violence when the person knows or reasonably should know that a minor, who is at least two years old, is present in a residence within sight or hearing of the crime of violence. A violator is subject to an enhanced penalty of imprisonment for up to five years in addition to any other sentence imposed for the crime of violence. An enhanced penalty imposed under the bill must be separate from and consecutive to any sentence for the crime of violence.

A court may impose this enhanced penalty if (1) the State's Attorney notifies the defendant in writing, at least 30 days before trial in the circuit court and 15 days before trial in the District Court, of the State's intention to seek the enhanced penalty and (2) the elements of the offense have been proven beyond a reasonable doubt. If the defendant is charged by indictment or criminal information, the State may include the required notice in the indictment or information.

Fiscal Summary

State Effect: Potential minimal increase in general fund expenditures due to the bill's penalty provisions.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: An offense classified as a crime of violence is subject to a criminal penalty, regardless of whether or not anyone witnessed the crime. Statute does not impose enhanced penalties based on whether a particular person, regardless of age, witnessed a crime.

“Crime of violence” means (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) an attempt to commit any of these crimes; or (17) assault with the intent to commit any of these crimes or a crime punishable by imprisonment for more than one year.

Background: According to the National Network to End Domestic Violence, on average, three women are killed by a current or former intimate partner each day in the United States and approximately 15.5 million children are exposed to domestic violence every year.

Studies have shown that children who witness domestic violence may suffer emotional and developmental difficulties that are similar to those suffered by children who have been directly abused. According to the U.S. Department of Health and Human Services’ Child Welfare Information Gateway, approximately 23 states have statutory provisions that address the issue of children who witness domestic violence. The statutes vary in scope. In approximately eight states, an act of domestic violence committed in the presence of a child is considered an aggravating circumstance under state sentencing guidelines that may result in longer sentences and/or higher fines. Five states require more severe penalties if an act of domestic violence is committed in the presence of a child. In five states, the act is a separate crime that may be charged separately or in addition to the act of violence.

According to the *2012 Uniform Crime Report*, 17,615 domestic violence crimes were reported in Maryland, a 3% decrease compared to the calendar 2011 total of 18,209. Assault was by far the most frequently reported crime, with 16,269 incidents in calendar 2012. Of reported assaults, simple assaults comprised 13,384 incidents. Aggravated assaults totaled 2,881, or 18%, of the reported domestic violence assaults for the same period.

Additional Information

Prior Introductions: Similar bills have been introduced in past sessions. HB 478 of 2013 passed the House as amended and received a favorable with amendments report from the Senate Judicial Proceedings Committee. No further action was taken. Its cross file, SB 861, passed the Senate as amended and received a hearing in the House Judiciary Committee. No further action was taken. HB 664 of 2012 passed the House as amended and received a favorable with amendments report from the Senate Judicial Proceedings Committee. No further action was taken. HB 663 of 2011 passed the House and received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 650 of 2010 passed the House and received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 258 of 2009 passed the House as amended and was referred to the Senate Judicial Proceedings Committee, but no further action was taken. Similar legislation was also introduced in the 2006, 2007, and 2008 sessions.

Cross File: SB 683 (Senator Zirkin) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, National Network to End Domestic Violence, U.S. Department of Health and Human Services – Child Welfare Information Gateway, Department of Legislative Services

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