

HOUSE BILL 1220

E1, D4

7lr0786

By: **Prince George's County Delegation**

Introduced and read first time: February 10, 2017

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Commission of Crime of Violence in Presence of Minor**

3 **PG 313–17**

4 FOR the purpose of prohibiting a person in Prince George's County from committing a
5 certain crime of violence when the person knows or reasonably should know that a
6 minor is present in a residence; establishing certain circumstances under which a
7 minor is present; providing certain penalties; providing that a sentence imposed
8 under this Act shall be separate from and consecutive to a sentence for any crime
9 based on the act establishing the violation of this Act; altering the definition of
10 "neglect" in certain provisions of law governing the reporting and investigation of
11 suspected child abuse or neglect; and generally relating to the commission of a crime
12 of violence in the presence of a minor.

13 BY repealing and reenacting, without amendments,
14 Article – Criminal Law
15 Section 3–601.1
16 Annotated Code of Maryland
17 (2012 Replacement Volume and 2016 Supplement)

18 BY adding to
19 Article – Criminal Law
20 Section 3–601.2
21 Annotated Code of Maryland
22 (2012 Replacement Volume and 2016 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article – Family Law
25 Section 5–701(s)
26 Annotated Code of Maryland
27 (2012 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY repealing and reenacting, without amendments,
Article – Family Law
Section 5–704
Annotated Code of Maryland
(2012 Replacement Volume and 2016 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) A person may not commit a crime of violence as defined in § 5–101 of the Public Safety Article when the person knows or reasonably should know that a minor who is at least 2 years old is present in a residence.

(2) For the purposes of paragraph (1) of this subsection, a minor is present if the minor is within sight or hearing of the crime of violence.

(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 of violence.

(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)(1) of this section have been proven beyond a reasonable doubt.

(d) If the defendant is charged by indictment or criminal information, the State may include the notice required under subsection (c)(1) of this section in the indictment or information.

(e) An enhanced penalty imposed under this section shall be separate from and consecutive to a sentence for any crime based on the act establishing the violation of this section.

3–601.2.

(A) THIS SECTION APPLIES ONLY IN PRINCE GEORGE’S COUNTY.

(B) (1) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS DEFINED IN § 5-101 OF THE PUBLIC SAFETY ARTICLE WHEN THE PERSON KNOWS OR REASONABLY SHOULD KNOW THAT A MINOR IS PRESENT IN A RESIDENCE.

(2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE CRIME OF VIOLENCE.

(C) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE.

(D) A SENTENCE IMPOSED UNDER THIS SECTION SHALL BE SEPARATE FROM AND CONSECUTIVE TO A SENTENCE FOR ANY CRIME BASED ON THE ACT ESTABLISHING THE VIOLATION OF THIS SECTION.

Article – Family Law

5-701.

(s) “Neglect” means:

(1) the leaving of a child unattended or other failure to give proper care and attention to a child by any parent or other person who has permanent or temporary care or custody or responsibility for supervision of the child under circumstances that indicate:

[(1)] (I) that the child’s health or welfare is harmed or placed at substantial risk of harm; or

[(2)] (II) mental injury to the child or a substantial risk of mental injury;
OR

(2) IN PRINCE GEORGE’S COUNTY, AN ACT THAT CONSTITUTES A VIOLATION OF § 3-601.2 OF THE CRIMINAL LAW ARTICLE, WHETHER OR NOT THE PERSON WHO COMMITTED THE ACT IS CHARGED WITH A CRIME.

5-704.

(a) Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State:

(1) who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and

(2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.

(b) (1) An individual who notifies the appropriate authorities under subsection (a) of this section shall make:

(i) an oral report, by telephone or direct communication, as soon as possible to the local department or appropriate law enforcement agency; and

(ii) a written report:

1. to the local department not later than 48 hours after the contact, examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and

2. with a copy to the local State's Attorney.

(2) (i) An agency to which an oral report of suspected abuse or neglect is made under paragraph (1) of this subsection shall immediately notify the other agency.

(ii) This paragraph does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.

(c) Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

(1) the name, age, and home address of the child;

(2) the name and home address of the child's parent or other person who is responsible for the child's care;

(3) the whereabouts of the child;

(4) the nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and

(5) any other information that would help to determine:

(i) the cause of the suspected abuse or neglect; and

(ii) the identity of any individual responsible for the abuse or neglect.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2017.