## HOUSE BILL 664

E1 HB 663/11 – JUD

### By: **Delegates Simmons, Dumais, K. Kelly, Kramer, and Krebs** Introduced and read first time: February 8, 2012

Assigned to: Judiciary

Committee Report: Favorable House action: Adopted Read second time: March 18, 2012

CHAPTER \_\_\_\_\_

1 AN ACT concerning

# 2 Crimes - Committing a Crime of Violence in the Presence of a Minor 3 Penalties

4 FOR the purpose of prohibiting a person from committing a certain crime of violence  $\mathbf{5}$ when the person knows or reasonably should know that a minor is present; 6 establishing certain circumstances under which a minor is present in a 7 residence; establishing certain penalties for a violation of this Act; establishing 8 that a sentence under this Act is separate from and consecutive to a sentence 9 for a crime based on the act establishing a violation of this Act; providing that a 10 person who violates this Act is guilty of the abuse of a child under 18 for certain 11 purposes; and generally relating to the commission of crimes of violence in the 12 presence of minors.

- 13 BY repealing and reenacting, without amendments,
- 14 Article Courts and Judicial Proceedings
- 15 Section 9–106(a)
- 16 Annotated Code of Maryland
- 17 (2006 Replacement Volume and 2011 Supplement)
- 18 BY adding to
- 19 Article Criminal Law
- 20 Section 3–601.1
- 21 Annotated Code of Maryland
- 22 (2002 Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

<u>Underlining</u> indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.



 $\mathbf{2}$ HOUSE BILL 664 BY repealing and reenacting, without amendments, 1  $\mathbf{2}$ Article – Public Safety 3 Section 5-101(a) and (c) 4 Annotated Code of Maryland (2011 Replacement Volume)  $\mathbf{5}$ SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 6 7 MARYLAND, That the Laws of Maryland read as follows: 8 **Article – Courts and Judicial Proceedings** 9 9-106.10 The spouse of a person on trial for a crime may not be compelled to testify (a) as an adverse witness unless the charge involves: 11 12(1)The abuse of a child under 18; or 13 (2)Assault in any degree in which the spouse is a victim if: 14The person on trial was previously charged with assault in (i) any degree or assault and battery of the spouse; 1516 (ii) The spouse was sworn to testify at the previous trial; and 17(iiii) The spouse refused to testify at the previous trial on the basis of the provisions of this section. 18 **Article – Criminal Law** 19203-601.1. 21(1) A PERSON MAY NOT COMMIT A CRIME OF VIOLENCE AS (A) 22DEFINED IN § 5–101 OF THE PUBLIC SAFETY ARTICLE WHEN THE PERSON 23KNOWS OR REASONABLY SHOULD KNOW THAT A MINOR IS PRESENT IN A 24**RESIDENCE.** 25(2) FOR THE PURPOSES OF PARAGRAPH (1) OF THIS SUBSECTION, 26A MINOR IS PRESENT IF THE MINOR IS WITHIN SIGHT OR HEARING OF THE 27**CRIME OF VIOLENCE.** 28A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A **(B)** 29MISDEMEANOR AND ON CONVICTION, IN ADDITION TO ANY OTHER SENTENCE IMPOSED FOR THE CRIME OF VIOLENCE, IS SUBJECT TO IMPRISONMENT NOT 30 EXCEEDING 5 YEARS OR A FINE NOT EXCEEDING \$5,000 OR BOTH. 31

### HOUSE BILL 664

$egin{array}{c} 1 \\ 2 \\ 3 \end{array}$	(C) 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.		
4 5	(D) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF THE ABUSE OF A CHILD UNDER 18 FOR PURPOSES OF § 9–106 OF THE COURTS ARTICLE.		
6			Article – Public Safety
7	5-101.		
8	(a)	In this subtitle the following words have the meanings indicated.	
9	(c)	"Crime of violence" means:	
10		(1)	abduction;
11		(2)	arson in the first degree;
12		(3)	assault in the first or second degree;
13		(4)	burglary in the first, second, or third degree;
14		(5)	carjacking and armed carjacking;
15		(6)	escape in the first degree;
16		(7)	kidnapping;
17		(8)	voluntary manslaughter;
18 19	the Code;	(9)	maiming as previously proscribed under former Article 27, § 386 of
$\begin{array}{c} 20\\ 21 \end{array}$	the Code;	(10)	mayhem as previously proscribed under former Article 27, § 384 of
22		(11)	murder in the first or second degree;
23		(12)	rape in the first or second degree;
24		(13)	robbery;
25		(14)	robbery with a dangerous weapon;
26		(15)	sexual offense in the first, second, or third degree;

#### HOUSE BILL 664

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

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect 7 October 1, 2012.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.