

# HOUSE BILL 790

E1  
HB 776/10 – JUD

11r0799

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By: **Delegates Lee, Cane, Carr, Clagett, Conway, Cullison, DeBoy, Frick, Frush, Gutierrez, A. Kelly, Kipke, McComas, McDonough, A. Miller, B. Robinson, Sophocleus, Stocksdales, Stukes, F. Turner, Valderrama, and Wilson**

Introduced and read first time: February 10, 2011

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Home Invasion Violent Crime**

3 FOR the purpose of prohibiting a person from breaking and entering the dwelling of  
4 another and committing a violent crime against a certain victim; establishing  
5 certain criminal penalties; authorizing a sentence imposed under this Act to be  
6 separate from and consecutive to a sentence for any other crime that arises from  
7 the conduct underlying the home invasion violent crime; defining a certain  
8 term; altering a certain definition; and generally relating to the prohibition of  
9 home invasion violent crimes.

10 BY adding to

11 Article – Criminal Law

12 Section 3–1001 to be under the new subtitle “Subtitle 10. Home Invasion  
13 Violent Crime”

14 Annotated Code of Maryland

15 (2002 Volume and 2010 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Criminal Law

18 Section 14–101(a)

19 Annotated Code of Maryland

20 (2002 Volume and 2010 Supplement)

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

23 **Article – Criminal Law**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1                   **SUBTITLE 10. HOME INVASION VIOLENT CRIME.**2   **3-1001.**3           **(A) IN THIS SECTION, "VIOLENT CRIME" MEANS:**4                   **(1) ABDUCTION;**5                   **(2) ARSON IN THE FIRST DEGREE;**6                   **(3) KIDNAPPING;**7                   **(4) MANSLAUGHTER, EXCEPT INVOLUNTARY MANSLAUGHTER;**8                   **(5) MAYHEM;**9                   **(6) MAIMING, AS PREVIOUSLY PROSCRIBED UNDER FORMER**  
10 **ARTICLE 27, §§ 385 AND 386 OF THE CODE;**11                   **(7) MURDER;**12                   **(8) RAPE;**13                   **(9) ROBBERY UNDER § 3-402 OR § 3-403 OF THIS ARTICLE;**14                   **(10) CARJACKING;**15                   **(11) ARMED CARJACKING;**16                   **(12) SEXUAL OFFENSE IN THE FIRST DEGREE;**17                   **(13) SEXUAL OFFENSE IN THE SECOND DEGREE;**18                   **(14) USE OF A HANDGUN IN THE COMMISSION OF A FELONY OR**  
19 **OTHER CRIME OF VIOLENCE;**20                   **(15) CHILD ABUSE IN THE FIRST DEGREE UNDER § 3-601 OF THIS**  
21 **ARTICLE;**22                   **(16) SEXUAL ABUSE OF A MINOR UNDER § 3-602 OF THIS ARTICLE**  
23 **IF:**24                           **(I) THE VICTIM IS UNDER THE AGE OF 13 YEARS AND THE**  
25 **OFFENDER IS AN ADULT AT THE TIME OF THE OFFENSE; AND**

- 1                                   **(II) THE OFFENSE INVOLVED:**
- 2                                   1.     **VAGINAL INTERCOURSE, AS DEFINED IN § 3-301**  
3 **OF THIS ARTICLE;**
- 4                                   2.     **A SEXUAL ACT, AS DEFINED IN § 3-301 OF THIS**  
5 **ARTICLE;**
- 6                                   3.     **AN ACT IN WHICH A PART OF THE OFFENDER'S**  
7 **BODY PENETRATES, HOWEVER SLIGHTLY, INTO THE VICTIM'S GENITAL OPENING**  
8 **OR ANUS; OR**
- 9                                   4.     **THE INTENTIONAL TOUCHING, NOT THROUGH THE**  
10 **CLOTHING, OF THE VICTIM'S OR THE OFFENDER'S GENITAL, ANAL, OR OTHER**  
11 **INTIMATE AREA FOR SEXUAL AROUSAL, GRATIFICATION, OR ABUSE;**
- 12                                   **(17) AN ATTEMPT TO COMMIT ANY OF THE CRIMES DESCRIBED IN**  
13 **ITEMS (1) THROUGH (16) OF THIS SUBSECTION;**
- 14                                   **(18) CONTINUING COURSE OF CONDUCT WITH A CHILD UNDER**  
15 **§ 3-315 OF THIS ARTICLE;**
- 16                                   **(19) ASSAULT IN THE FIRST DEGREE;**
- 17                                   **(20) ASSAULT WITH INTENT TO MURDER;**
- 18                                   **(21) ASSAULT WITH INTENT TO RAPE;**
- 19                                   **(22) ASSAULT WITH INTENT TO ROB;**
- 20                                   **(23) ASSAULT WITH INTENT TO COMMIT A SEXUAL OFFENSE IN THE**  
21 **FIRST DEGREE; AND**
- 22                                   **(24) ASSAULT WITH INTENT TO COMMIT A SEXUAL OFFENSE IN THE**  
23 **SECOND DEGREE.**
- 24                                   **(B) A PERSON MAY NOT BREAK AND ENTER THE DWELLING OF**  
25 **ANOTHER AND COMMIT A VIOLENT CRIME AGAINST A VICTIM WHO IS A LAWFUL**  
26 **OCCUPANT OF THE DWELLING.**
- 27                                   **(C) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS**  
28 **GUILTY OF A FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT**  
29 **EXCEEDING 30 YEARS.**

1           **(D) A SENTENCE IMPOSED UNDER THIS SECTION MAY BE SEPARATE**  
2 **FROM AND CONSECUTIVE TO A SENTENCE FOR ANY OTHER CRIME THAT ARISES**  
3 **FROM THE CONDUCT UNDERLYING THE HOME INVASION VIOLENT CRIME.**

4 14–101.

5           (a) In this section, “crime of violence” means:

6           (1) abduction;

7           (2) arson in the first degree;

8           (3) kidnapping;

9           (4) manslaughter, except involuntary manslaughter;

10           (5) mayhem;

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

13           (7) murder;

14           (8) rape;

15           (9) robbery under § 3–402 or § 3–403 of this article;

16           (10) carjacking;

17           (11) armed carjacking;

18           (12) sexual offense in the first degree;

19           (13) sexual offense in the second degree;

20           (14) use of a handgun in the commission of a felony or other crime of  
21 violence;

22           (15) child abuse in the first degree under § 3–601 of this article;

23           (16) sexual abuse of a minor under § 3–602 of this article if:

24                   (i) the victim is under the age of 13 years and the offender is an  
25 adult at the time of the offense; and

26                   (ii) the offense involved:

- 1                   1.     vaginal intercourse, as defined in § 3–301 of this  
2 article;
- 3                   2.     a sexual act, as defined in § 3–301 of this article;
- 4                   3.     an act in which a part of the offender’s body  
5 penetrates, however slightly, into the victim’s genital opening or anus; or
- 6                   4.     the intentional touching, not through the clothing, of  
7 the victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,  
8 gratification, or abuse;
- 9                   (17) an attempt to commit any of the crimes described in items (1)  
10 through (16) of this subsection;
- 11                   (18) continuing course of conduct with a child under § 3–315 of this  
12 article;
- 13                   (19) assault in the first degree;
- 14                   (20) assault with intent to murder;
- 15                   (21) assault with intent to rape;
- 16                   (22) assault with intent to rob;
- 17                   **(23) A HOME INVASION VIOLENT CRIME UNDER § 3–1001 OF THIS**  
18 **ARTICLE;**
- 19                   **[(23)] (24)** assault with intent to commit a sexual offense in the first  
20 degree; and
- 21                   **[(24)] (25)** assault with intent to commit a sexual offense in the second  
22 degree.

23                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 October 1, 2011.