

SENATE BILL 481

E1, E4

0lr2295
CF 0lr2326

By: **Senators Lee, Elfreth, Kagan, Kramer, Waldstreicher, and Young**

Introduced and read first time: January 29, 2020

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Crime of Violence – Vulnerable Adult**

3 FOR the purpose of altering certain definitions of “crime of violence” to include a certain
4 offense of abuse or neglect of a vulnerable adult in the first degree; and generally
5 relating to crimes of violence.

6 BY repealing and reenacting, without amendments,
7 Article – Criminal Law
8 Section 3–604
9 Annotated Code of Maryland
10 (2012 Replacement Volume and 2019 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Criminal Law
13 Section 14–101(a)
14 Annotated Code of Maryland
15 (2012 Replacement Volume and 2019 Supplement)

16 BY repealing and reenacting, with amendments,
17 Article – Public Safety
18 Section 5–101(c)
19 Annotated Code of Maryland
20 (2018 Replacement Volume and 2019 Supplement)

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

23 **Article – Criminal Law**

24 3–604.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(a) (1) In this section and §§ 3–605 and 3–606 of this subtitle the following words have the meanings indicated.

(2) (i) “Abuse” means the sustaining of physical pain or injury by a vulnerable adult as a result of cruel or inhumane treatment or as a result of a malicious act under circumstances that indicate that the vulnerable adult’s health or welfare is harmed or threatened.

(ii) “Abuse” includes the sexual abuse of a vulnerable adult.

(iii) “Abuse” does not include an accepted medical or behavioral procedure ordered by a health care provider authorized to practice under the Health Occupations Article or § 13–516 of the Education Article acting within the scope of the health care provider’s practice.

(3) “Caregiver” means a person under a duty to care for a vulnerable adult because of a contractual undertaking to provide care.

(4) “Family member” means a relative of a vulnerable adult by blood, marriage, adoption, or the marriage of a child.

(5) “Household” means the location:

(i) in which the vulnerable adult resides;

(ii) where the abuse or neglect of a vulnerable adult is alleged to have taken place; or

(iii) where the person suspected of abusing or neglecting a vulnerable adult resides.

(6) “Household member” means an individual who lives with or is a regular presence in a home of a vulnerable adult at the time of the alleged abuse or neglect.

(7) (i) “Neglect” means the intentional failure to provide necessary assistance and resources for the physical needs of a vulnerable adult, including:

1. food;

2. clothing;

3. toileting;

4. essential medical treatment;

5. shelter; or

1 6. supervision.

2 (ii) “Neglect” does not include the provision of nonmedical remedial
3 care and treatment for the healing of injury or disease that is:

4 1. given with the consent of the vulnerable adult; and

5 2. recognized by State law in place of medical treatment.

6 (8) “Serious physical injury” means physical injury that:

7 (i) creates a substantial risk of death; or

8 (ii) causes permanent or protracted serious:

9 1. disfigurement;

10 2. loss of the function of any bodily member or organ; or

11 3. impairment of the function of any bodily member or organ.

12 (9) (i) “Sexual abuse” means an act that involves sexual molestation or
13 exploitation of a vulnerable adult.

14 (ii) “Sexual abuse” includes:

15 1. incest;

16 2. rape;

17 3. sexual offense in any degree;

18 4. sodomy; and

19 5. unnatural or perverted sexual practices.

20 (10) “Vulnerable adult” means an adult who lacks the physical or mental
21 capacity to provide for the adult’s daily needs.

22 (b) (1) A caregiver, a parent, or other person who has permanent or temporary
23 care or responsibility for the supervision of a vulnerable adult may not cause abuse or
24 neglect of the vulnerable adult that:

25 (i) results in the death of the vulnerable adult;

26 (ii) causes serious physical injury to the vulnerable adult; or

(iii) involves sexual abuse of the vulnerable adult.

(2) A household member or family member may not cause abuse or neglect of a vulnerable adult that:

(i) results in the death of the vulnerable adult;

(ii) causes serious physical injury to the vulnerable adult; or

(iii) involves sexual abuse of the vulnerable adult.

(c) A person who violates this section is guilty of the felony of abuse or neglect of a vulnerable adult in the first degree and on conviction is subject to imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

(d) A sentence imposed under this section shall be in addition to any other sentence imposed for a conviction arising from the same facts and circumstances unless the evidence required to prove each crime is substantially identical.

14–101.

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

(1) abduction;

(2) arson in the first degree;

(3) kidnapping;

(4) manslaughter, except involuntary manslaughter;

(5) mayhem;

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

(7) murder;

(8) rape;

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

(10) carjacking;

(11) armed carjacking;

(12) sexual offense in the first degree;

(13) sexual offense in the second degree;

(14) use of a firearm in the commission of a felony except possession with intent to distribute a controlled dangerous substance under § 5–602(2) of this article, or other crime of violence;

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

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

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

(ii) the offense involved:

1. vaginal intercourse, as defined in § 3–301 of this article;

2. a sexual act, as defined in § 3–301 of this article;

3. an act in which a part of the offender's body penetrates, however slightly, into the victim's genital opening or anus; or

4. the intentional touching of the victim's or the offender's genital, anal, or other intimate area for sexual arousal, gratification, or abuse;

(17) home invasion under § 6–202(b) of this article;

(18) a felony offense under Title 3, Subtitle 11 of this article;

(19) ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE FIRST DEGREE UNDER § 3–604 OF THIS ARTICLE;

(20) an attempt to commit any of the crimes described in items (1) through **[(18)] (19)** of this subsection;

[(20)] (21) continuing course of conduct with a child under § 3–315 of this article;

[(21)] (22) assault in the first degree;

[(22)] (23) assault with intent to murder;

[(23)] (24) assault with intent to rape;

[(24)] (25) assault with intent to rob;

and

degree.

5-101.

(c)

- (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 as previously proscribed under former Article 27, § 386 of the Code;
- (10) mayhem as previously proscribed under former Article 27, § 384 of the Code;
- (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) home invasion under § 6–202(b) of the Criminal Law Article;

(17) a felony offense under Title 3, Subtitle 11 of the Criminal Law Article;

(18) **ABUSE OR NEGLECT OF A VULNERABLE ADULT IN THE FIRST DEGREE UNDER § 3-604 OF THE CRIMINAL LAW ARTICLE;**

(19) an attempt to commit any of the crimes listed in items (1) through **[(17)] (18)** of this subsection; or

[(19)] (20) assault with intent to commit any of the crimes listed in items (1) through **[(17)] (18)** of this subsection or a crime punishable by imprisonment for more than 1 year.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2020.