HOUSE BILL 359

E1, D4 7lr0869 By: Delegates Angel, Anderson, Bromwell, Carr, Davis, Dumais, Gutierrez, Hettleman, Hill, C. Howard, Korman, Lierman, Luedtke, Malone, McCray, McIntosh, Moon, Oaks, Pena-Melnyk, Queen, Sydnor, M. Washington, C. Wilson, and R. Lewis Introduced and read first time: January 25, 2017 Assigned to: Judiciary Committee Report: Favorable with amendments House action: Adopted Read second time: March 31, 2017 CHAPTER ____ AN ACT concerning Child Neglect - Reporting - Commission of Crime of Violence in Presence of Minor Family Law – Child Abuse and Neglect – Mental Injury FOR the purpose of altering the definition of "neglect" in certain provisions of law governing the reporting and investigation of suspected child abuse or neglect; establishing that neglect includes an act that would constitute a violation of a provision that prohibits a person from committing a crime of violence when the person knows or reasonably should know that a minor of a certain age is present in a residence; and generally relating to the commission of a crime of violence in the presence of a minor and child neglect definition of "mental injury" for the purpose of certain child abuse and neglect statutes; and generally relating to child abuse and neglect. BY repealing and reenacting, without amendments, Article - Criminal Law Section 3-601.1 Annotated Code of Maryland (2012 Replacement Volume and 2016 Supplement) BY repealing and reenacting, with amendments, Article - Family Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

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

Section 5-701(s)

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



$\frac{1}{2}$	Annotated Code of Maryland (2012 Replacement Volume and 2016 Supplement)					
3	BY repealing and reenacting, without amendments,					
4	Article - Family Law					
5	Section 5-704					
6	Annotated Code of Maryland					
7	(2012 Replacement Volume and 2016 Supplement)					
8	BY repealing and reenacting, without amendments,					
9	Article – Family Law					
10						
11	Annotated Code of Maryland					
12	(2012 Replacement Volume and 2016 Supplement)					
13	BY repealing and reenacting, with amendments,					
14	Article – Family Law					
15	Section $5-701(r)$					
16	Annotated Code of Maryland					
17	(2012 Replacement Volume and 2016 Supplement)					
18	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,					
19	That the Laws of Maryland read as follows:					
20	Article - Criminal Law					
21	3-601.1.					
22 23	(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					
22 23	(a) (1) A person may not commit a crime of violence as defined in § 5–101 of					
22 23 24 25	(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					
22 23 24 25	(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.					
22 23 24 25 26	(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					
221 222 223 224 225 226 27 28	(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.					
22 23 24 25 26	(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					
222 223 224 225 226 227 228	(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.					
22 23 24 25 26 27 28 29 30	(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:					
22 23 24 25 26 27 28	(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					
222 223 224 225 226 227 228 229 330	(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:					
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1	(d) If the defendant is charged by indictment or criminal information, the Stat							
2	may include the notice required under subsection (c)(1) of this section in the indictment or							
3	information.							
4	(e) An enhanced penalty imposed under this section shall be separate from an							
5	consecutive to a sentence for any crime based on the act establishing the violation of thi							
6	section.							
7	A42-1- E21- I							
7	Article - Family Law							
8	5-701.							
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9	(s) "Neglect" means:							
10	(1) the leaving of a child unattended or other failure to give proper care an							
11	attention to a child by any parent or other person who has permanent or temporary care of							
12	custody or responsibility for supervision of the child under circumstances that indicate:							
13	(1) (1) that the child's health or welfare is harmed or placed a							
14	substantial risk of harm; or							
15	(2) (II) mental injury to the child or a substantial risk of mental injury							
16	OR							
17	(2) AN ACT THAT CONSTITUTES A VIOLATION OF § 3-601.1 OF TH							
18	CRIMINAL LAW ARTICLE, WHETHER OR NOT THE PERSON WHO COMMITTED TH							
19								
20	5-704.							
21	(a) Notwithstanding any other provision of law, including any law on privilege							
22	communications, each health practitioner, police officer, educator, or human service							
23	worker, acting in a professional capacity in this State:							
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24	(1) who has reason to believe that a child has been subjected to abuse of							
25	neglect, shall notify the local department or the appropriate law enforcement agency; and							
26	(2) if acting as a staff member of a hospital, public health agency, child car							
$\frac{20}{27}$	(2) if acting as a staff member of a hospital, public health agency, child car institution, juvenile detention center, school, or similar institution, shall immediatel							
28	notify and give all information required by this section to the head of the institution or the							
29	designee of the head.							
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30	(b) (1) An individual who notifies the appropriate authorities under subsection							
31	(a) of this section shall make:							

1			(i)	an oral report, by telephone or direct communication, as soon as	
2	possible to	the loc	al dep	artment or appropriate law enforcement agency; and	
3			(ii)	a written report:	
4				1. to the local department not later than 48 hours after the	
5	contact, exc	aminat	ion, at	tention, or treatment that caused the individual to believe that the	
6	child had b	een su l	ojectec	l to abuse or neglect; and	
7				2. with a copy to the local State's Attorney.	
8		(2)	(i)	An agency to which an oral report of suspected abuse or neglect	
9	is made un	der par	agrap	h (1) of this subsection shall immediately notify the other agency.	
10			(ii)	This paragraph does not prohibit a local department and an	
11	appropriate	e law e i	nforce :	ment agency from agreeing to cooperative arrangements.	
12	(e)	Incof	or oci	s reasonably possible, an individual who makes a report under this	
13	(-)			the report the following information:	
14		(1)		name, age, and home address of the child;	
		(0)	. 1		
15 16	responsible	$\frac{(2)}{(2)}$		name and home address of the child's parent or other person who is	
16	responsible) 101' th(s enna	-s care,	
17		(3)	the v	whereabouts of the child;	
18		(4)	the r	nature and extent of the abuse or neglect of the child, including any	
19	evidence or	'inforn		available to the reporter concerning possible previous instances of	
20	abuse or ne	e glect; (and		
21		(5)	any	other information that would help to determine:	
22			(i)	the cause of the suspected abuse or neglect; and	
23			(ii)	the identity of any individual responsible for the abuse or neglect.	
24				<u> Article – Family Law</u>	
25	<u>5–701.</u>				
26	<u>(b)</u>	<u>"Abu</u>	se" me	eans:	
27		(1)	the	physical or mental injury of a child by any parent or other person	
28	who has pe			emporary care or custody or responsibility for supervision of a child,	
29	_			family member, under circumstances that indicate that the child's	
30	health or walfara is harmed or at substantial risk of heing harmed; or				

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sexual abuse of a child, whether physical injuries are sustained or not.

$\frac{2}{3}$	(r) (1) "Mental injury" means the observable, identifiable, and substantial impairment of a child's mental or psychological ability to function.
J	impairment of a child's mental or psychological ability to function.
4	(2) "MENTAL INJURY" INCLUDES THE OBSERVABLE, IDENTIFIABLE.
5	AND SUBSTANTIAL IMPAIRMENT OF A CHILD'S MENTAL OR PSYCHOLOGICAL ABILITY
6	TO FUNCTION THAT RESULTS FROM THE CHILD'S EXPOSURE TO AN ACT THAT
7	CONSTITUTES A CRIME OF VIOLENCE, AS DEFINED IN § 14–101 OF THE CRIMINAL
8	LAW ARTICLE, COMMITTED BY A PARENT OR HOUSEHOLD OR FAMILY MEMBER
9	AGAINST A PARENT OR HOUSEHOLD OR FAMILY MEMBER.
10	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11	October 1, 2017.
	Approved:
	Governor.
	Speaker of the House of Delegates.
	President of the Senate.