

# HOUSE BILL 847

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By: **Delegates Rey, Fisher, Hornberger, McConkey, Morgan, and B. Wilson**

Introduced and read first time: February 8, 2016

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Crime of Violence – Definition**

3 FOR the purpose of altering certain definitions of “crime of violence” to conform to a certain  
4 other definition of “crime of violence”; providing that a certain definition of “crime of  
5 violence” applies to certain uses of the term in certain provisions of law; altering the  
6 list of crimes that are included in the definition of a “crime of violence”; and generally  
7 relating to crimes of violence.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 3–2011(a)  
11 Annotated Code of Maryland  
12 (2013 Replacement Volume and 2015 Supplement)

13 BY repealing and reenacting, with amendments,  
14 Article – Criminal Law  
15 Section 3–204, 3–601.1(a), 4–107(a) and (b), 4–204(b), 4–306(b)(1), 4–401(b), and  
16 14–101(a)  
17 Annotated Code of Maryland  
18 (2012 Replacement Volume and 2015 Supplement)

19 BY repealing and reenacting, without amendments,  
20 Article – Criminal Law  
21 Section 4–401(a)  
22 Annotated Code of Maryland  
23 (2012 Replacement Volume and 2015 Supplement)

24 BY repealing and reenacting, without amendments,  
25 Article – Public Safety  
26 Section 5–101(a)  
27 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2011 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,  
Article – Public Safety  
Section 5–101(c), 5–201, 5–206(a)(1), and 5–301  
Annotated Code of Maryland  
(2011 Replacement Volume and 2015 Supplement)

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

### Article – Courts and Judicial Proceedings

3–2011.

(a) There is no privilege under § 3–2009 of this subtitle for a collaborative law communication that is:

(1) Available to the public under Title 10, Subtitle 6 of the State Government Article or made during a session of a collaborative law process that is open or is required by law to be open to the public;

(2) A threat or statement of a plan to inflict bodily injury or commit a crime of violence, **AS DEFINED IN § 14–101 OF THE CRIMINAL LAW ARTICLE**;

(3) Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

(4) In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

### Article – Criminal Law

3–204.

(a) A person may not recklessly:

(1) engage in conduct that creates a substantial risk of death or serious physical injury to another; or

(2) discharge a firearm from a motor vehicle in a manner that creates a substantial risk of death or serious physical injury to another.

(b) A person who violates this section is guilty of the misdemeanor of reckless endangerment and on conviction is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both.

1 (c) (1) Subsection (a)(1) of this section does not apply to conduct involving:

2 (i) the use of a motor vehicle, as defined in § 11–135 of the  
3 Transportation Article; or

4 (ii) the manufacture, production, or sale of a product or commodity.

5 (2) Subsection (a)(2) of this section does not apply to:

6 (i) a law enforcement officer or security guard in the performance of  
7 an official duty; or

8 (ii) an individual acting in defense of a crime of violence as defined  
9 in [§ 5–101 of the Public Safety Article] **§ 14–101 OF THIS ARTICLE**.

10 3–601.1.

11 (a) (1) A person may not commit a crime of violence as defined in [§ 5–101 of  
12 the Public Safety Article] **§ 14–101 OF THIS ARTICLE** when the person knows or  
13 reasonably should know that a minor who is at least 2 years old is present in a residence.

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

16 4–107.

17 (a) Except for a person holding a valid permit issued under subsection (c) of this  
18 section, a person who was previously convicted of a crime of violence, **AS DEFINED IN §**  
19 **14–101 OF THIS ARTICLE**, or a drug trafficking crime may not use, possess, or purchase  
20 bulletproof body armor.

21 (b) A person with a prior conviction for a crime of violence, **AS DEFINED IN §**  
22 **14–101 OF THIS ARTICLE**, or a drug trafficking crime may file a petition with the  
23 Secretary for a permit to purchase, possess, and use bulletproof body armor.

24 4–204.

25 (b) A person may not use a firearm in the commission of a crime of violence, as  
26 defined in [§ 5–101 of the Public Safety Article] **§ 14–101 OF THIS ARTICLE**, or any felony,  
27 whether the firearm is operable or inoperable at the time of the crime.

28 4–306.

29 (b) (1) A person who uses an assault weapon, or a magazine that has a capacity  
30 of more than 10 rounds of ammunition, in the commission of a felony or a crime of violence  
31 as defined in [§ 5–101 of the Public Safety Article] **§ 14–101 OF THIS ARTICLE** is guilty of

1 a misdemeanor and on conviction, in addition to any other sentence imposed for the felony  
2 or crime of violence, shall be sentenced under this subsection.

3 4–401.

4 (a) In this subtitle the following words have the meanings indicated.

5 (b) [(1)] “Crime of violence” [means:

6 (i) murder in any degree;

7 (ii) manslaughter;

8 (iii) kidnapping;

9 (iv) rape in any degree;

10 (v) assault in the first degree;

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

12 (vii) burglary in any degree;

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

14 (ix) escape in the first degree; or

15 (x) theft.

16 (2) “Crime of violence” includes an attempt to commit a crime listed in  
17 paragraph (1) of this subsection] **HAS THE MEANING STATED IN § 14–101 OF THIS**  
18 **ARTICLE.**

19 14–101.

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

21 (1) abduction;

22 (2) arson in the first degree;

23 (3) kidnapping;

24 (4) manslaughter, except involuntary manslaughter;

25 (5) mayhem;

- 1           (6)    maiming, as previously proscribed under former Article 27, §§ 385 and  
2 386 of the Code;
- 3           (7)    murder;
- 4           (8)    rape;
- 5           (9)    robbery under § 3–402 or § 3–403 of this article;
- 6           (10)  carjacking;
- 7           (11)  armed carjacking;
- 8           (12)  sexual offense in the first degree;
- 9           (13)  sexual offense in the second degree;
- 10           **(14)  SEXUAL OFFENSE IN THE THIRD DEGREE UNDER § 3–307(A)(1)**  
11 **AND (2) OF THIS ARTICLE;**
- 12           **(15)  ESCAPE IN THE FIRST DEGREE UNDER § 9–404 OF THIS ARTICLE;**
- 13           **(16)  HOME INVASION UNDER § 6–202(B) OF THIS ARTICLE;**
- 14           [(14)] **(17)**  use of a handgun in the commission of a felony or other crime of  
15 violence;
- 16           [(15)] **(18)**  child abuse in the first degree under § 3–601 of this article;
- 17           [(16)] **(19)**  sexual abuse of a minor under § 3–602 of this article if:
- 18                   (i)    the victim is under the age of 13 years and the offender is an  
19 adult at the time of the offense; and
- 20                   (ii)  the offense involved:
- 21                           1.    vaginal intercourse, as defined in § 3–301 of this article;
- 22                           2.    a sexual act, as defined in § 3–301 of this article;
- 23                           3.    an act in which a part of the offender’s body penetrates,  
24 however slightly, into the victim’s genital opening or anus; or
- 25                           4.    the intentional touching, not through the clothing, of the  
26 victim’s or the offender’s genital, anal, or other intimate area for sexual arousal,  
27 gratification, or abuse;

1            [(17)] **(20)** an attempt to commit any of the crimes described in items (1)  
2 through [(16)] **(19)** of this subsection;

3            [(18)] **(21)** continuing course of conduct with a child under § 3–315 of this  
4 article;

5            [(19)] **(22)** assault in the first degree;

6            [(20)] **(23)** assault with intent to murder;

7            [(21)] **(24)** assault with intent to rape;

8            [(22)] **(25)** assault with intent to rob;

9            [(23)] **(26)** assault with intent to commit a sexual offense in the first degree;  
10 **[and]**

11            [(24)] **(27)** assault with intent to commit a sexual offense in the second  
12 degree; AND

13            **(28) ASSAULT WITH INTENT TO COMMIT A SEXUAL OFFENSE IN THE**  
14 **THIRD DEGREE UNDER § 3–307(A)(1) AND (2) OF THIS ARTICLE.**

### 15                                    Article – Public Safety

16 5–101.

17            (a) In this subtitle the following words have the meanings indicated.

18            (c) “Crime of violence” [means:

19                                    (1) abduction;

20                                    (2) arson in the first degree;

21                                    (3) assault in the first or second degree;

22                                    (4) burglary in the first, second, or third degree;

23                                    (5) carjacking and armed carjacking;

24                                    (6) escape in the first degree;

25                                    (7) kidnapping;

- 1 (8) voluntary manslaughter;
- 2 (9) maiming as previously proscribed under former Article 27, § 386 of the  
3 Code;
- 4 (10) mayhem as previously proscribed under former Article 27, § 384 of the  
5 Code;
- 6 (11) murder in the first or second degree;
- 7 (12) rape in the first or second degree;
- 8 (13) robbery;
- 9 (14) robbery with a dangerous weapon;
- 10 (15) sexual offense in the first, second, or third degree;
- 11 (16) home invasion under § 6–202(b) of the Criminal Law Article;
- 12 (17) an attempt to commit any of the crimes listed in items (1) through (16)  
13 of this subsection; or
- 14 (18) assault with intent to commit any of the crimes listed in items (1)  
15 through (16) of this subsection or a crime punishable by imprisonment for more than 1  
16 year] **HAS THE MEANING STATED IN § 14–101 OF THE CRIMINAL LAW ARTICLE.**

17 5–201.

18 (a) In this subtitle the following words have the meanings indicated.

19 **(B) “CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14–101 OF THE**  
20 **CRIMINAL LAW ARTICLE.**

21 **[(b)] (C)** “Rifle” has the meaning stated in § 4–201 of the Criminal Law Article.

22 **[(c)] (D)** “Short–barreled rifle” has the meaning stated in § 4–201 of the  
23 Criminal Law Article.

24 **[(d)] (E)** “Short–barreled shotgun” has the meaning stated in § 4–201 of the  
25 Criminal Law Article.

26 **[(e)] (F)** “Shotgun” has the meaning stated in § 4–201 of the Criminal Law  
27 Article.

28 5–206.

1 (a) A person may not possess a rifle or a shotgun if the person was previously  
2 convicted of:

3 (1) a crime of violence [as defined in § 5–101 of this title];  
4 5–301.

5 (a) In this subtitle the following words have the meanings indicated.

6 (b) “Board” means the Handgun Permit Review Board.

7 (c) **“CRIME OF VIOLENCE” HAS THE MEANING STATED IN § 14–101 OF THE**  
8 **CRIMINAL LAW ARTICLE.**

9 [(c)] (D) “Handgun” has the meaning stated in § 4–201 of the Criminal Law  
10 Article.

11 [(d)] (E) “Permit” means a permit issued by the Secretary to carry, wear, or  
12 transport a handgun.

13 [(e)] (F) “Qualified handgun instructor” has the meaning stated in § 5–101 of  
14 this title.

15 [(f)] (G) “Secretary” means the Secretary of State Police or the Secretary’s  
16 designee.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
18 October 1, 2016.