

**MEMORANDUM**

July 22, 2011

TO: County Council

FROM: Amanda Mihill, Legislative Analyst *A. Mihill*

SUBJECT: **Public Hearing:** Expedited Bill 25-11, Offenses – Curfew – Established

Expedited Bill 25-11, Offenses – Curfew – Established, sponsored by the Council President at the Request of the County Executive was introduced on July 12, 2011. A Public Safety Committee worksession is tentatively scheduled for September 15 at 9:30 a.m.

Bill 25-11 would establish a curfew for minors; make certain findings; prohibit certain activities during the curfew; provide for certain defenses; establish enforcement procedures and penalties; and generally amend County law relating to offenses and curfews.

According to the County Executive's transmittal memorandum, Bill 25-11 is intended to address issues relating to increased gang activity, violence, and crime involving minors in the County. The Executive notes that Bill 25-11 is similar to existing laws in Prince George's County and the District of Columbia.

This packet contains:

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Expedited Bill No. 25-11  
Concerning: Offenses - Curfew -  
Established  
Revised: 7/11/2011 Draft No. 1  
Introduced: July 12, 2011  
Expires: January 12, 2013  
Enacted: \_\_\_\_\_  
Executive: \_\_\_\_\_  
Effective: \_\_\_\_\_  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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By: Council President at the Request of the County Executive

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**AN EXPEDITED ACT** to:

- (1) establish a curfew for minors;
- (2) make certain findings;
- (3) prohibit certain activities during the curfew;
- (4) provide for certain defenses;
- (5) establish enforcement procedures and penalties; and
- (6) generally amend County law relating to offenses and curfews.

By adding

Montgomery County Code  
Chapter 32, Offenses – Victim Advocate  
Section 32-23A

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec 1. Sections 32-23A is added as follows:**

2    **32-23A. Curfew.**

3           **(a) Findings and Purpose.**

4           (1) There has been an increase in juvenile violence, juvenile gang  
5           activity, and crime by minors in the County.

6           (2) Minors are particularly susceptible, because of their lack of  
7           maturity and experience, to participate in unlawful and gang-  
8           related activities and to be the victims of crime.

9           (3) The County is obligated to provide for:

10           (A) the protection of minors from each other and from other  
11           persons;

12           (B) the enforcement of parental control over, and  
13           responsibility for, children;

14           (C) the protection of the general public; and

15           (D) the reduction of the incidence of juvenile criminal  
16           activities.

17           (4) A curfew for minors is in the interest of the public health,  
18           safety, and general welfare and will help to attain these  
19           objectives and to diminish the impact of unwanted conduct on  
20           County residents.

21           (5) A curfew law will protect the welfare of minors by:

22           (A) reducing the likelihood that minors will be the victims of  
23           criminal acts during the curfew hours;

24           (B) reducing the likelihood that minors will become involved  
25           in criminal acts or exposed to trafficking in controlled  
26           substances during the curfew hours; and

27           (C) aiding parents in carrying out their responsibility to

28           exercise reasonable supervision of minors entrusted to their  
29           care.

30       **(b) Definitions.**

31       In this Section, the following terms have the meanings indicated:

32       Curfew hours means from 11 p.m. on any Sunday, Monday, Tuesday,  
33       Wednesday, or Thursday, until 5 a.m. the following day, and from  
34       12:01 a.m. until 5 a.m. on any Saturday or Sunday.

35       Drug trafficking means the act of engaging in any prohibited activity  
36       related to controlled dangerous substances as defined in State law.

37       Emergency means an unforeseen combination of circumstances or the  
38       resulting state that calls for immediate action. Emergency includes a  
39       fire, natural disaster, automobile accident, or any situation that  
40       requires immediate action to prevent serious bodily injury or loss of  
41       life.

42       Establishment means any privately-owned place of business to which  
43       the public is invited, including any place of amusement or  
44       entertainment.

45       Minor means any person under 18 years old, but does not include a  
46       judicially emancipated minor or a married minor.

47       Operator means any individual, firm, association, partnership, or  
48       corporation that operates, manages, or conducts an establishment.

49       Operator includes the members or partners of an association or  
50       partnership and the officers of a corporation.

51       Parent means:

- 52       (1) natural parent;  
53       (2) adoptive parent;  
54       (3) step-parent;

- 55           (4) any person who has legal custody or is the guardian of a minor  
 56                 by court order or marriage;
- 57           (5) any person who is at least 21 years old who is authorized by a  
 58                 natural parent, adoptive parent, step-parent, or custodial parent  
 59                 of a child to act as a caretaker for the child; or
- 60           (6) a public or private agency with whom a minor has been placed  
 61                 by a court.

62           Public place means any place to which the public, or a substantial  
 63                 group of the public, has access. Public place includes any street,  
 64                 highway, and common area of a school, hospital, apartment house,  
 65                 office building, transport facility, or shop.

66           Remain means to linger, stay, or fail to leave a public place or  
 67                 establishment when requested to do so by a police officer or the  
 68                 owner, operator, or other person in control of the public place or  
 69                 establishment.

70           Serious bodily injury means bodily injury that creates a substantial  
 71                 risk of death or that causes death, serious permanent disfigurement, or  
 72                 protracted loss or impairment of the function of any bodily member or  
 73                 organ.

74           (c) **Prohibitions.**

75           (1) **Minor.** A minor must not remain in any public place or  
 76                 establishment in the County during curfew hours.

77           (2) **Parent.** A parent of a minor must not knowingly permit, or by  
 78                 insufficient control allow, the minor to remain in any public  
 79                 place or any establishment in the County during curfew hours.  
 80                 The term “knowingly” includes knowledge that a parent should  
 81                 reasonably be expected to have concerning the location of a

82 minor in that parent's legal custody. This requirement is  
 83 intended to hold a neglectful or careless parent to a reasonable  
 84 community standard of parental responsibility through an  
 85 objective test. It is, therefore, no defense that a parent did not  
 86 know of the activities, conduct, or location of the minor.

87 (3) **Owner or Operator.** The owner or operator of an  
 88 establishment must not knowingly allow a minor to remain at  
 89 an establishment in the County during curfew hours. The term  
 90 "knowingly" includes knowledge that an owner or operator  
 91 should reasonably be expected to have concerning the patrons  
 92 of the establishment. The standard for "knowingly" must be  
 93 whether a reasonable person in the position of the owner or  
 94 operator should have known that the patron was a minor  
 95 committing a curfew violation.

96 (d) **Defenses.**

97 (1) It is not a violation of this Section if a minor during curfew  
 98 hours was:

99 (A) accompanied by the minor's parent;

100 (B) accompanied by an adult authorized by the minor's  
 101 parent to accompany the minor for a specified period of  
 102 time and purpose in a specified area;

103 (C) on an errand at the direction of the minor's parent,  
 104 without any detour or stop, until 12:30 a.m.;

105 (D) in a motor vehicle, train, or bus in interstate travel  
 106 through the County or starting or ending in the County;

107 (E) engaged in employment, or going to, or returning home  
 108 from, employment, without any detour or stop. The

109 minor must carry a valid work permit issued under State  
 110 law;

111 (F) responding to an emergency;

112 (G) on the property where the minor resides;

113 (H) on the sidewalk that abuts the minor's residence, or that  
 114 abuts the residence of a next-door neighbor if the  
 115 neighbor did not complain to the Police Department  
 116 about the minor's presence;

117 (I) attending an official school, religious, or other  
 118 recreational activity sponsored by the County, a civic  
 119 organization, or a similar entity that takes responsibility  
 120 for the minor, or going to, or returning home from,  
 121 without any detour or stop, an official school, religious,  
 122 or other recreational activity supervised by adults and  
 123 sponsored by the County, a civic organization, or a  
 124 similar entity that takes responsibility for the minor; or

125 (J) exercising First Amendment rights protected by the  
 126 United States Constitution.

127 (2) It is not a violation of subsection (c)(3) if the owner or operator  
 128 of an establishment promptly notified the Police Department  
 129 that a minor was present in the establishment during curfew  
 130 hours and refused to leave.

131 (e) **Enforcement procedures.**

132 (1) Before taking any enforcement action under this Section, a  
 133 police officer must ask an apparent minor's age and reason for  
 134 being in the public place or establishment. The officer must not  
 135 issue a citation or make an arrest under this Section unless the

136 officer reasonably believes that:  
 137 (A) an offense has occurred; and  
 138 (B) based on any response and other circumstances, no  
 139 condition in subsection (d) applies.

140 (2) If a police officer finds that a minor is committing a curfew  
 141 offense, the police officer must take the minor to the nearest  
 142 available Police facility, substation, or other area designated by  
 143 the Police Department, and detain the minor until the minor can  
 144 be released to the custody of the minor's parent or an adult  
 145 acting in loco parentis.

146 (3) The minor's parent or an adult acting in loco parentis with  
 147 respect to the minor must be called to the Police facility,  
 148 substation or other designated area to take custody of the minor.  
 149 A minor who is released to a person acting in loco parentis with  
 150 respect to the minor must not be taken into custody for violation  
 151 of this Section while returning home with the person acting in  
 152 loco parentis. If no person claims responsibility for the minor,  
 153 the police may take the minor to the minor's residence or place  
 154 the minor in the custody of the Department of Health and  
 155 Human Services, who may release the minor at 5 a.m. the next  
 156 morning.

157 **(f) Penalties.**

158 (1) Any parent or any owner or operator of an establishment who  
 159 violates this Section has committed a separate offense for each  
 160 day, or part of a day, during which the violation is committed,  
 161 continued, or permitted. Each offense is a Class A violation.

162 (2) The Court may also require one or more parent of a minor, after



163 each conviction for violating this Section to complete parenting  
164 classes.

165 (3) A minor found to have violated this Section by the Juvenile  
166 Court may be ordered to perform up to 25 hours of community  
167 service for each violation.

168 **Sec 2. Expedited Effective Date.**

169 The Council declares that this Act is necessary for the immediate protection  
170 of the public interest. This Act takes effect on the date when it becomes law.

171 *Approved:*

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Valerie Ervin, President, County Council Date

173 *Approved:*

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Isiah Leggett, County Executive Date

175 *This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council Date

## LEGISLATIVE REQUEST REPORT

*Bill 25-11*  
*Offenses – Curfew - Minors*

**DESCRIPTION:** This bill imposes a curfew on youth under the age of 18 years from Midnight to 5:00 am on Saturday and Sunday and from 11:00 pm to 5:00 am on the remaining days of the week.

**PROBLEM:** This bill is intended to address issues relating to increased gang activity, violence, and crime involving minors in the County.

**GOALS AND OBJECTIVES:** Youth under the age of 18 are particularly susceptible, because of their lack of maturity and experience, to participate in unlawful and gang-related activities and to be the victim of older perpetrators of crime. Enactment of this bill will protect the welfare of minors by: (1) reducing the likelihood that minors will be the victims of criminal acts during curfew hours; (2) reducing the likelihood that minors will become involved in criminal acts or exposed to criminal acts during curfew hours; and (3) aid parents in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care. The bill will also protect the general public from juvenile related criminal activity.

**COORDINATION:** Department of Police, Office of the State's Attorney

**FISCAL IMPACT:**

**ECONOMIC IMPACT:**

**EVALUATION:**

**EXPERIENCE ELSEWHERE:** This bill is similar to laws that currently exist in the District of Columbia and Prince George's County.

**SOURCE OF INFORMATION:** Police Chief Tom Manger  
Assistant Chief Administrative Officer Kathleen Boucher, 240-777-2593

**APPLICATION WITHIN MUNICIPALITIES:** All except Gaithersburg, Garrett Park, Kensington, Laytonsville, Poolesville, Rockville, Somerset, Washington Grove

**PENALTIES:** Class A



OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive


## MEMORANDUM

July 11, 2011

RECEIVED  
MONTGOMERY COUNTY  
EXECUTIVE

JUL 11 11 03 AM '11

TO: Valerie Ervin, President  
Montgomery County Council

FROM: Isiah Leggett, County Executive 

SUBJECT: Proposed Legislation Establishing a Curfew for Minors

I am transmitting for Council introduction an expedited bill that creates a curfew for youth under the age of 18 years, as well as a Legislative Request Report for the bill. This bill is similar to curfew laws that already exist in Prince George's County and the District of Columbia.

This bill is intended to address issues relating to increased gang activity, violence, and crime involving minors in the County. It imposes a curfew from Midnight to 5:00 am on Saturday and Sunday and from 11:00 pm to 5:00 am on the remaining days of the week.

Youth under the age of 18 are particularly susceptible, because of their lack of maturity and experience, to participate in unlawful and gang-related activities and to be the victim of older perpetrators of crime. Enactment of this bill will protect the welfare of minors by: (1) reducing the likelihood that minors will be the victims of criminal acts during curfew hours; (2) reducing the likelihood that minors will become involved in criminal acts or exposed to criminal acts during curfew hours; and (3) aid parents in carrying out their responsibility to exercise reasonable supervision of minors entrusted to their care. The bill will also protect the general public from juvenile related criminal activity.

I would greatly appreciate Council's expedited review of this bill. If you have any questions about the bill, please contact Assistant Chief Administrative Officer Kathleen Boucher at 240-777-2593 or [Kathleen.boucher@montgmoerycountymd.gov](mailto:Kathleen.boucher@montgmoerycountymd.gov).

Attachment