

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1995 Legislative Session

Bill No. CB-103-1995
 Chapter No. 76
 Proposed and Presented by Council Member Estep
 Introduced by Council Member Estep
 Co-Sponsors _____
 Date of Introduction October 24, 1995

BILL

AN ACT concerning

Juvenile Curfew

For the purpose of regulating the conduct of juveniles in public places and providing certain exceptions to protect fundamental rights of juveniles.

BY repealing:

SUBTITLE 14. MORALS AND CONDUCT.
 Sections 14-101, 14-102, 14-103, 14-104, 14-105, and 14-106,
 The Prince George's County Code
 (1991 Edition, 1994 Supplement).

BY adding:

SUBTITLE 14. MORALS AND CONDUCT.
 Sections 14-101, 14-102, 14-103, 14-104, 14-105, 14-106,
 and 14-106.01,
 The Prince George's County Code.

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that the County Council finds and determines that:

(A) There has been an increase in violence and crime involving juveniles as perpetrators and victims and an increase in juvenile gang activity in the County resulting in juveniles being involved in a wide range of illegal behavior including vandalism, public drinking, sale, possession and use of controlled dangerous substances, assault, theft, robbery,

possession and use of firearms, and homicide.

(B) Persons under the age of seventeen (17) are particularly susceptible by their lack of maturity, experience and judgment to becoming involved in unlawful gang-related activities and becoming the victims of criminal activity.

(C) It is necessary to provide for the protection of juveniles from each other and from other persons, to enhance parental control over minor children, to reinforce the responsibility of parents for the conduct of their minor children, to provide for the reduction of the incidence of juvenile criminal activities and to provide for the protection of the general public.

(D) The imposition of a curfew for persons under the age of seventeen (17) will promote the public health, safety and welfare by reducing the incidents of criminal activity associated with juveniles as victims and perpetrators.

SECTION 2. BE IT FURTHER ENACTED that Sections 14-101, 14-102, 14-103, 14-104, 14-105, and 14-106 of the Prince George's County Code be and the same are hereby repealed.

SECTION 3. BE IT FURTHER ENACTED by the County Council of Prince George's County, Maryland, that Sections 14-101, 14-102, 14-103, 14-104, 14-105, 14-106, and 14-106.01 of the Prince George's County Code be and the same are hereby added:

SUBTITLE 14. MORALS AND CONDUCT.

DIVISION 1. JUVENILE CURFEW.

Sec. 14-101. Definitions.

(a) For the purposes of this Division the following words and phrases shall have the following meanings:

(1) **Emergency** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, natural disaster, or automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(2) **Juvenile** or **minor** means any unemancipated person under the age of

seventeen (17) years.

(3) **Operator** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any place open to the public. The term includes the members or partners of an association or partnership and the officers of a corporation.

(4) **Parent** means any person having temporary or permanent care or custody of a juvenile (i) as a natural or adoptive parent, (ii) as a legal guardian, (iii) as a person stands *in loco parentis*, or (iv) as a person to whom legal custody has been given by court order.

(5) **Place open to the public** shall mean any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment, regardless of whether a charge for admission or entry is made.

(6) **Public place** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, common areas of schools, shopping centers, parking lots, parks, playgrounds, transportation facilities, theaters, restaurants, shops, bowling alleys, taverns, cafes, arcades, and similar areas that are open to the use of the public. "Street" includes any public right of way, including but not limited to the cartway of traffic lanes, the curb, the sidewalks whether paved or unpaved, and any grass plots or other grounds found within the legal right of way of a street.

(7) **Remain** means to stay behind, to tarry and to stay unnecessarily in a public place including the congregating of groups (or of interacting minors) totaling three or more persons in which any juvenile involved would not be using the streets for ordinary or serious purposes such as mere passage or going home, or to fail to leave the premises of a place open to the public when requested to do so by a police officer or the operator of a place open to the public.

(8) **Time of night** referred to herein is based upon the local prevailing standard of time.

Sec. 14-102. Curfew for juveniles.

(a) It shall be unlawful for any person under the age of seventeen (17) to be or remain in or upon a public place within the County during the period ending at 5:00 a.m. and beginning:

(1) At 11:59 p.m. on Friday and Saturday nights, and

- (2) 10:00 p.m. on all other nights.

Sec. 14-103. Exceptions.

(a) The curfew for juveniles imposed in this Division shall be subject to the following exceptions:

- (1) When a juvenile is accompanied by the juvenile's parent.
- (2) When a juvenile is accompanied by an adult authorized by the juvenile's parent to take the parent's place in accompanying the juvenile for a designated period of time and purpose within a specified area.
- (3) When the juvenile is on an errand as directed by his or her parent until the hour of 12:30 a.m.
- (4) When a juvenile is exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right of assembly, by first delivering to the person designated by the County Chief of Police to receive such information a written communication, signed by the juvenile and countersigned, if practicable, by a parent of the juvenile. The communication shall include the parent's home address and telephone number and specify when, where and in what manner the juvenile will be in a public place during hours when this Division is otherwise applicable to minors.
- (5) In case of reasonable necessity for the juvenile remaining in a public place but only after the juvenile's parent has communicated to the person designated by the Chief of Police to receive such notifications the facts establishing the reasonable necessity relating to a specified public place at a designated time for a designated purpose including points of origin and destination.
- (6) When a juvenile is on the property where the juvenile resides.
- (7) When a juvenile is returning home by a direct route (without any unnecessary detour or stop) from and within one (1) hour of the termination of a school activity or an activity of a religious or other voluntary association, or a place of public entertainment, such as a movie, play or sporting event.
- (8) When the juvenile is legally employed and carries a certified card of

employment, renewable every six months, dated or re-issued by the Chief of Police, the card of employment shall identify the juvenile, the addresses of the juvenile's home and of the juvenile's place of employment, and the juvenile's hours of employment.

(9) When the juvenile is, with parental consent, engaged in normal interstate travel through the County or originating or terminating in the County.

(10) When the juvenile is married or has been married pursuant to state law.

(11) In the case of an operator of a place open to the public, when the operator has notified the police that a juvenile was present on the premises of the place open to the public during curfew hours and refused to leave.

Sec. 14-104. Parental responsibility.

(a) It shall be unlawful for a parent having legal custody of a juvenile knowingly to permit or by inefficient control to allow the juvenile to remain in any County public place under circumstances not constituting an exception to, or otherwise beyond the scope of, this Division. The term "knowingly" includes knowledge that a parent should reasonably be expected to have concerning the whereabouts of a juvenile in that parent's legal custody. This requirement is intended to hold a neglectful or careless parent up to a reasonable community standard of parental responsibility through an objective test. It shall, therefore, be no defense that a parent was without knowledge of the activities or conduct or whereabouts of such juvenile.

Sec. 14-105. Operator responsibility.

(a) It shall be unlawful for any operator of a place open to the public to knowingly permit a juvenile to remain at the place open to the public under circumstances not constituting an exception to, or otherwise beyond the scope of, this Division. The term "knowingly" includes knowledge that an operator should reasonably be expected to have concerning the patrons of the place open to the public. The standard for "knowingly" shall be applied through an objective test: whether a reasonable person in the operator's position should have known that the patron was a juvenile in violation of this Division.

Sec. 14-106. Enforcement procedures.

(a) If a police officer reasonably believes that a juvenile is in a public place in violation

of this Division, the officer shall notify the juvenile that he or she is in violation of this Division and shall require the juvenile to provide his or her name, address and telephone number and how to contact his or her parent.

(b) The police officer shall issue the juvenile a written warning that the juvenile is in violation of this Division and order the juvenile to go promptly home. The Chief of Police shall send the parent of the juvenile written notice of the violation pursuant to Section 14-104.

(c) Notwithstanding paragraph (b) of this Section, when: (i) a juvenile has received one (1) previous written warning for violation of this Division; or (ii) a police officer has reasonable grounds to believe that the juvenile has engaged in delinquent conduct, the police officer shall take the juvenile into custody, and transport the juvenile to the police district station. The parent shall immediately be notified to come for the juvenile. The police officer shall determine whether, under constitutional safeguards, the juvenile and/or the parent is in violation of this Division.

(d) When a parent, immediately called, has come to take charge of the juvenile, and the appropriate information has been recorded, the juvenile shall be released to the custody of such parent. If the parent cannot be located or fails to take charge of the juvenile, then the juvenile shall be released to the Department of Social Services or, upon the recommendation of the Department of Social Services, to another adult who will on behalf of a parent assume the responsibility of caring for the juvenile pending the availability or arrival of a parent.

(e) In the case of a first violation of this Division by a juvenile, the Chief of Police shall by regular mail send to a parent written notice of the violation with a warning that any subsequent violation will result in full enforcement of this Division, including enforcement of parental responsibility and of applicable penalties.

(f) For the first violation of this Division by an operator of a place open to the public who permits a juvenile to remain on the premises, a police officer shall issue a written notice of the violation with a warning that any subsequent violation will result in full enforcement of this Division, including enforcement of operator responsibility and of applicable penalties.

Sec. 14-106.01. Penalties.

(a) If, after the warning notice pursuant to Section 14-106 of a first violation by a

juvenile, a parent violates Section 14-104 (in connection with a second violation by the juvenile), this shall be treated as a first offense by the parent and shall be a civil violation pursuant to Subtitle 28, Division 3. For the first offense by a parent, the fine shall be \$50.00, \$100.00 for the second offense, and \$250.00 for the third and any subsequent offense.

(b) The parent of a juvenile subject to this Section shall be liable for all costs incurred by the County for providing personnel to remain in the company of a juvenile who has been detained as a curfew violator if the parent does not pick up the juvenile within one hour after receiving notice from the County that the County is detaining the juvenile for a curfew violation. The amount to be paid by the parent shall be based on the hourly wage of the County employee who is assigned to remain with the juvenile plus the cost of benefits for that employee.

(c) If, after the warning notice pursuant to Section 14-106 of a violation of this Division, an operator of a place open to the public violates Section 14-105 a second time, this shall be treated as a first offense by the operator and shall be a civil violation pursuant to Subtitle 28, Division 3. For the first offense by an operator, the fine shall be \$100.00, \$250.00 for the second offense, and \$500.00 for the third and any subsequent offense.

SECTION 4. BE IT FURTHER ENACTED that within six (6) months after the effective date of this law, the Chief of Police shall provide the Council with a report concerning the effect of this Division on crimes committed by and against minors, and of the number of warnings issued and arrests of minors, parents, and operators hereunder, and such other information as the Chief deems appropriate.

SECTION 5. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

SECTION 6. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law.

Adopted this 21st day of November, 1995.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:

Anne T. MacKinnon
Chairwoman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.