

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 646
Judiciary

(Delegate Shank, *et al.*)

Judicial Proceedings

Victims of Crime - Burglary and Crimes of Violence - Civil Immunity

This bill provides that a person may not be liable for damages for a personal injury or death of an individual who enters the person's dwelling or place of business with the intent to commit a burglary in the first, second, or third degree or a crime of violence. Immunity does not attach if the person acts with malice or gross negligence. "Person" does not include a government entity. The bill does not limit or abrogate any immunity from civil liability or defense available to a person under any other provision of the Maryland Code or at common law.

The bill applies only prospectively to actions that arise on or after the bill's October 1, 2005 effective date.

Fiscal Summary

State Effect: None. The bill would not materially affect the Judiciary's workload.

Local Effect: None – see above.

Small Business Effect: None.

Analysis

Current Law: A person who has reasonable grounds to believe that the person is being attacked may use force that is reasonably necessary for protection against the potential injury. A person may not use force that is likely to cause death or serious bodily injury unless the person reasonably believes that he or she is in danger of serious bodily injury.

A “crime of violence” includes:

- abduction;
- arson in the first degree;
- kidnapping;
- manslaughter, except involuntary manslaughter;
- mayhem;
- maiming;
- murder;
- rape;
- robbery;
- carjacking;
- armed carjacking;
- sexual offense in the first degree;
- sexual offense in the second degree;
- use of a handgun in the commission of a felony or other crime of violence;
- an attempt to commit any of the above crimes;
- assault in the first degree;
- assault with intent to murder;
- assault with intent to rape;
- assault with intent to rob;
- assault with intent to commit a first degree sexual offense; and
- assault with intent to commit a second degree sexual offense.

Background: Civil suits have been filed by or on behalf of several individuals who have entered a person’s dwelling or place of business with the intent to commit serious crimes.

Additional Information

Prior Introductions: HB 1463 of 2004, an identical bill, passed the House; a hearing was held in the Judicial Proceedings Committee, but no further action was taken.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 16, 2005
n/jr

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