

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 940
Judiciary

(Delegate Lee, *et al.*)

Criminal Law - Home Invasion Violent Crime and Armed Home Invasion Violent Crime

This bill establishes the offenses of home invasion violent crime and armed home invasion violent crime. A person who breaks and enters the dwelling of another person and commits one or more specified violent crimes against a lawful occupant of the dwelling is guilty of home invasion violent crime. A person who employs or displays a dangerous weapon during the commission of a home invasion violent crime is guilty of armed home invasion violent crime. Violators are guilty of a felony and subject to a maximum penalty of 30 years imprisonment. A sentence imposed for these offenses may be separate from and consecutive to any other crime that arises from the conduct underlying the (armed) home invasion violent crime.

The bill also adds “home invasion violent crime” and “armed home invasion violent crime” to the definition of “crime of violence” in the Criminal Law Article.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill’s enhanced incarceration penalties for this type of offense. Revenues are not affected.

Local Effect: None. The bill does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: A person may not break and enter the dwelling of another with the intent to commit theft or a crime of violence. A violator is guilty of first degree burglary, a felony punishable by up to 20 years imprisonment.

A person may not break and enter the dwelling of another with the intent to commit a crime. A violator is guilty of burglary in the third degree, a felony punishable by up to 10 years imprisonment. Burglary in the second degree involves breaking and entering a storehouse, not a dwelling.

A person who breaks and enters the dwelling of another or is in or on the dwelling of or an area belonging to the dwelling of another with the intent to commit theft is guilty of burglary in the fourth degree, a misdemeanor punishable by up to three years imprisonment.

A person is prohibited from committing or attempting to commit a robbery. Violators are guilty of a felony and are subject to imprisonment for up to 15 years. Under the common law, a robbery is the felonious taking and carrying away of the personal property of another from his person by the use of violence or by putting him/her in fear.

A person who commits or attempts to commit a robbery with a dangerous weapon or by displaying a written instrument claiming that the person has possession of a dangerous weapon is guilty of a felony and is subject to imprisonment for up to 20 years.

Under § 4-101 of the Criminal Law Article (prohibition on wearing or carrying a dangerous weapon), a “weapon” includes a razor, a nunchaku, a dirk knife, bowie knife, switchblade knife, star knife, sandclub, and metal knuckles. “Weapon” does not include a handgun or penknife without a switchblade.

A “crime of violence” is (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first and second degree sexual offenses; (12) use of a handgun in the commission of a felony or other crime of violence; (13) child abuse in the first degree; (14) sexual abuse of a minor under the age of 13 years under specified circumstances; (15) an attempt to commit crimes (1) through (14); (16) continuing course of conduct with a child; (17) assault in the first degree; or (18) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

A conviction for a “crime of violence” has several employment and correctional consequences, including ineligibility for certain jobs and occupational licenses, a reduced rate for earning diminution credits, and limited parole eligibility.

Background: In many states, home invasions are treated as a form of burglary. Connecticut, Illinois, and Michigan are among the states that have specific home invasion statutes.

In fiscal 2012, the Department of Public Safety and Correctional Services (DPSCS) conducted intake on 915 individuals for burglary offenses. Of these individuals, 405 were convicted of first degree burglary. According to the most recent version of the *Uniform Crime Report*, there were 35,781 reports of breaking and entering during 2011, a 3% decrease over 2010. The report defines “breaking and entering” as the unlawful entry of a structure to commit a felony or theft. There were 7,067 arrests for burglary statewide during 2011, compared to 6,413 arrests during 2010.

During fiscal 2012, DPSCS conducted intake on 447 individuals for robbery, and 181 individuals for second degree burglary.

State Expenditures: The bill imposes a maximum penalty of 30 years imprisonment for (armed) home invasion violent crime, which is greater than the current 20-year maximum penalty for first degree burglary, the most severe form of burglary. As a result, general fund expenditures increase minimally as a result of the bill’s incarceration penalty due to people being committed to State correctional facilities for longer periods of time.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,900 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable medical care and variable operating costs) is about \$370 per month. Excluding all medical care, the average variable costs total \$180 per month.

Additional Information

Prior Introductions: HB 1143 of 2012 received a hearing in the House Judiciary Committee. No further action was taken.

Cross File: SB 248 (Senators Brochin and Stone) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Public Safety and Correctional Services, Office of the Public Defender, Maryland State Commission on Criminal Sentencing Policy, *Uniform Crime Report*, Department of State Police, Department of Legislative Services

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ncs/kdm

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