

**Department of Legislative Services**  
Maryland General Assembly  
2015 Session

**FISCAL AND POLICY NOTE**  
**Revised**

Senate Bill 67

(Senator Lee)

Judicial Proceedings

Judiciary

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**Crime of Violence - Home Invasion**

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This bill adds felony home invasion to the definition of a “crime of violence” under § 4-401 of the Criminal Law Article and § 5-101 of the Public Safety Article.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund expenditures if individuals are convicted of other offenses or face longer incarcerations as a result of the bill’s provisions. Revenues are not affected.

**Local Effect:** The bill does not materially affect local finances.

**Small Business Effect:** None.

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**Analysis**

**Current Law/Background:** Prior to October 1, 2014, a person who broke and entered the dwelling of another with the intent to commit theft or a crime of violence (as defined under § 14-101 of the Criminal Law Article) was guilty of burglary in the first degree, a felony punishable by imprisonment for up to 20 years.

Chapter 238 of 2014 established the crime of felony home invasion under the burglary in the first degree statute. Pursuant to Chapter 238, a person who breaks and enters the dwelling of another with the intent to commit a crime of violence is guilty of felony home invasion and subject to imprisonment for up to 25 years. Chapter 238 retained the application of the maximum penalty for first-degree burglary (imprisonment for 20 years) to individuals who break and enter the dwelling of another with the intent to commit a theft.

“Crime of violence” is defined in multiple locations in the Maryland Code. Each of these definitions is unique and carries its own implications.

However, while burglary in the first degree is included in the definitions of a “crime of violence” under § 4-401 of the Criminal Law Article and § 5-101 of the Public Safety Article, Chapter 238 did not add felony home invasion to those definitions.

#### *§ 4-401 of the Criminal Law Article*

Section 4-401 defines a “crime of violence” as (1) murder in any degree; (2) manslaughter; (3) kidnapping; (4) rape in any degree; (5) assault in the first degree; (6) robbery; (7) burglary in any degree; (8) escape in the first degree; (9) theft; or (10) an attempt to commit any of these offenses. This definition is applied mainly to the Uniform Machine Gun Act. Under the Act, a person may not use or possess a machine gun in the commission or attempted commission of a crime of violence. Violators are guilty of a felony, punishable by imprisonment for up to 20 years. The Act also prohibits a person from possessing or using a machine gun for an offensive or aggressive purpose. Possession or use of a machine gun is presumed to be for an offensive or aggressive purpose if, among other things, the machine gun is in the possession of, or used by an unnaturalized foreign-born person or a person who has been convicted of a crime of violence in any state or federal court of the United States. Violators are guilty of a misdemeanor, punishable by imprisonment for up to 10 years.

#### *§ 5-501 of the Public Safety Article*

Section 5-501 defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) an attempt to commit offenses (1) through (15); or (17) assault with the intent to commit offenses (1) through (15) or a crime punishable by imprisonment for more than one year.

This definition is cross-referenced in statutes pertaining to reckless endangerment, committing a crime in the presence of a minor, use of a handgun or antique firearm in the commission of a crime, use of an assault weapon or magazine in the commission of a felony or a crime of violence, and possession of a rifle or shotgun by a person previously convicted of specified offenses.

**State Expenditures:** General fund expenditures increase minimally if individuals (1) are convicted of other offenses that use the commission of or a conviction for a crime of

violence as a qualifying factor and a home invasion is the only crime of violence with which they were involved or (2) face longer incarcerations due to the bill's provisions. Due to the violent nature of home invasions, it is likely that an individual convicted of felony home invasion will also be convicted of a crime already classified as a crime of violence under current statute based on the same set of events.

Because felony home invasion became a unique offense on October 1, 2014, data is not readily available on the number of individuals convicted of this offense. However, according to the Judiciary, there were 1,323 violations of the first-degree burglary statute filed in the State's circuit courts during calendar 2014. Information is not readily available as to how many of those violations involved breaking and entering into the dwelling of another with the intent to commit a theft and how many involved the intent to commit a crime of violence (which was classified as first-degree burglary until October 1, 2014). The Department of Public Safety and Correctional Services conducted intake on 375 individuals for first-degree burglary during fiscal 2014.

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 \$3,100 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 health care costs) is about \$770 per month. Excluding all health care, the average variable costs total \$200 per month.

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## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

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md/kdm Revised - Enrolled Bill/Clarification - April 29, 2015

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