

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 321
Judiciary

(Delegate Attar, *et al.*)

Judicial Proceedings

Criminal Law - Crimes of Malicious or Fraudulent Burning - Prohibitions and Penalties

This bill prohibits a person from committing a “crime of malicious or fraudulent burning” that causes the death of or serious physical injury to a firefighter. A violator is guilty of a felony and subject to imprisonment for up to 10 years. A sentence imposed for a violation of the bill’s prohibition may be separate from and run consecutive to or concurrent with a sentence imposed for any crime based on the act establishing the violation.

Fiscal Summary

State Effect: Potential minimal increase in incarceration expenditures due to the bill’s penalty provision. The Judiciary and the Office of the Public Defender (OPD) can handle the bill’s requirements with existing budgeted resources, as discussed below. Revenues are not affected.

Local Effect: The bill does not materially affect local government operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: “Crime of malicious or fraudulent burning” means a violation of:

- § 6-104 of the Criminal Law Article (malicious burning of personal property in the first degree);
- § 6-105 of the Criminal Law Article (malicious burning of personal property in the second degree); or

- § 6-106 of the Criminal Law Article (burning with intent to defraud).

Current Law:

Malicious Burning

A person may not willfully and maliciously set fire to or burn the personal property of another. A violator causing property damage of at least \$1,000 is guilty of the felony of malicious burning in the first degree, which is punishable by imprisonment for up to five years, a fine of up to \$5,000, or both. A violator causing less than \$1,000 in property damage is guilty of the misdemeanor of malicious burning in the second degree, which is a misdemeanor punishable by imprisonment for up to 18 months, a fine of up to \$500, or both.

Burning with Intent to Defraud

A person who sets fire to or burns property of any kind with the intent to defraud another is guilty of a misdemeanor and, on conviction, is subject to imprisonment for up to five years, a fine of up to \$5,000, or both.

State Expenditures: The bill is not expected to materially affect State incarceration expenditures or workloads for the Judiciary or OPD.

Department of Public Safety and Correctional Services

General fund expenditures may increase minimally as a result of the bill's incarceration penalty due to more people being committed to State correctional facilities for longer periods of time. The number of people convicted of this proposed crime is expected to be minimal.

Judiciary

The Judiciary advises that any impact on its operations from the bill's implementation should be minimal and can be absorbed with existing budgeted resources.

Exhibit 1 contains information for fiscal 2023 on the number of violations (charges) filed and convictions in the District Court and circuit courts for the offenses defined under the bill as a crime of malicious or fraudulent burning and the number of sentences imposed in the circuit courts for those offenses. The Judiciary and the Maryland State Commission on Criminal Sentencing Policy advise, respectively, that it was not possible to identify how many of the violations filed or convictions or sentences imposed in fiscal 2023 for a crime

of malicious or fraudulent burning involved the death of or serious physical injury to a firefighter.

Exhibit 1
Crimes of Malicious or Fraudulent Burning
Fiscal 2023

Charge	District Court Violations Filed/Guilty Dispositions¹	Circuit Court Violations Filed/Guilty Dispositions	MSCCSP Circuit Court Convictions (Individuals/Counts)²
Criminal Law Article, § 6-104 (Malicious Burning of Personal Property in the First Degree)	55/0	65/7	8/8
Criminal Law Article, § 6-105 (Malicious Burning of Personal Property in the Second Degree)	102/8	45/9	12/12
Criminal Law Article, § 6-106 (Burning w/ Intent to Defraud)	4/1	1/0	1/1

MSCCSP: Maryland State Commission on Criminal Sentencing Policy

¹ A violation is a charge filed with the court. It is not a conviction, and one person may be associated with multiple violations.

² Reflects data from the Maryland State Sentencing Guidelines Database for sentencing information received by MSCCSP for individuals sentenced in the State’s circuit courts.

Sources: Maryland Judiciary; Maryland State Commission on Criminal Sentencing Policy

Office of the Public Defender

OPD advises that the bill could result in new cases and require it to devote additional resources to existing clients charged with the new crime. Accordingly, OPD advises that the bill necessitates the hiring of one full-time assistant public defender, at a cost of \$89,686 in fiscal 2025 and increasing to \$122,681 by fiscal 2029. The Department of Legislative Services (DLS) advises that the bill is unlikely to warrant the hiring of an

additional attorney, as any increase in OPD's workload is expected to be minimal and absorbable within existing resources.

DLS notes that any individual charged under the bill would already be facing a charge for an underlying crime under existing statute; thus, the bill would not require OPD to take on any new clients. The bill's impact to OPD, if any, would be attributable to having to defend a small number of existing clients against a new charge that arises out of the same alleged conduct that led to them being charged with a crime of malicious or fraudulent burning.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 435 (Senators Gallion and Folden) - Judicial Proceedings.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Natural Resources; Department of Public Safety and Correctional Services; Department of Legislative Services

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