

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 235 (Senators Stone and Hughes)
(Committee to Revise Article 27 – Crimes and Punishments)
Judicial Proceedings

Criminal Law - Burglary - Fines

This bill establishes and alters the maximum fines for certain crimes relating to burglary.

Fiscal Summary

State Effect: General fund revenues could increase minimally as a result of the bill's new or altered monetary penalty provisions from cases heard in the District Court. To the extent that fines are levied by courts instead of imprisonment penalties involving a State correctional facility – where that option was not available before – State correctional costs could be reduced.

Local Effect: Revenues could increase minimally as a result of the bill's new or altered monetary penalty provisions from cases heard in the circuit courts. To the extent that fines are levied by courts instead of imprisonment involving a local correctional facility – where that option was not available before – local correctional costs could be reduced.

Small Business Effect: None.

Analysis

Bill Summary: Specifically, the bill:

- establishes a maximum fine of \$20,000 for first degree burglary and allows the imposition of a fine and/or the current law imprisonment penalty (up to 20 years);

- establishes a maximum fine of \$15,000 for second degree burglary and allows the imposition of a fine and/or the current law imprisonment penalty (up to 15 years); and increases, from \$10,000 to \$20,000, the maximum fine for second degree burglary when the intent is to take a firearm;
- establishes a maximum fine of \$10,000 for third degree burglary and allows the imposition of a fine and/or the current law imprisonment penalty (up to 10 years);
- establishes a maximum fine of \$3,000 for fourth degree burglary and allows the imposition of a fine and/or the current law imprisonment penalty (up to 3 years);
- establishes a maximum fine of \$3,000 for breaking and entering a motor vehicle and allows the imposition of a fine and/or the current law imprisonment penalty (up to 3 years); and
- establishes a maximum fine of \$20,000 for burglary with a destructive device and allows the imposition of a fine and/or the current law imprisonment penalty (up to 20 years).

Current Law: The following provisions constitute the current statutory prohibitions against burglary:

Burglary in the First Degree

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 a felony and subject to maximum imprisonment for 20 years.

Burglary in the Second Degree

A person may not break and enter the storehouse of another with the intent to commit theft, a crime of violence, or arson in the second degree. A violator is guilty of a felony and subject to maximum imprisonment for 15 years.

A person may not break and enter the storehouse of another with the intent to steal, take, or carry away a firearm. A violator is guilty of a felony and subject to maximum penalties of imprisonment for 20 years and/or a fine of \$10,000.

Burglary in the Third Degree

A person may not break and enter the dwelling of another with the intent to commit a crime. A violator is guilty of a felony and subject to maximum imprisonment for ten years.

Burglary in the Fourth Degree

- A person may not break and enter the dwelling of another.
- A person may not break and enter the storehouse of another.
- A person, with the intent to commit theft, may not be in or on the dwelling or storehouse of another, or a yard, garden, or other area belonging to the dwelling or storehouse of another. A person convicted of theft may not also be convicted of this offense based on the act establishing the theft offense.
- A person may not possess a burglar's tool with the intent to use or allow the use of the burglar's tool in the commission of a burglary.

A violator is guilty of a felony and subject to maximum imprisonment for three years.

Breaking and Entering a Motor Vehicle – Rogue and Vagabond

A person may not possess a burglar's tool with the intent to use or allow the use of the burglar's tool in the commission of a crime involving the breaking and entering of a motor vehicle; and a person may not be in or on the motor vehicle of another with the intent to commit theft of the motor vehicle or property that is in the motor vehicle. A violator is guilty of a misdemeanor, must be considered a rogue and vagabond, and is subject to maximum imprisonment for three years.

Burglary with Destructive Device

A person may not open or attempt to open a vault, safe, or other secure repository by the use of a destructive device while committing first, second, or third degree burglary. A violator is guilty of a felony and subject to maximum imprisonment for 20 years. A sentence imposed for a violation of this section may be separate from and consecutive to or concurrent with a sentence for another crime based on the same underlying act.

Background: The Committee to Revise Article 27 was appointed in 1991 by the Speaker and the President and charged with making both substantive and stylistic changes to the State's criminal law. The committee is composed of legislators, judges, lawyers representing both defendants and the State, and a victims' rights representative. In past sessions the committee has successfully sponsored legislation to revise the laws on accessory before and after the fact, arson, assault, benefit of clergy, burglary, destructive devices, disorderly conduct, escape, leased or rented goods, Medicaid fraud, offensive contact, prostitution, robbery, sabotage, trespass, and victims' rights.

The specific fines for the crimes affected by this bill were proposed under the rationale that the appropriate maximum fine is calculated by multiplying by \$1,000 the maximum number of years of imprisonment authorized by statute.

Additional Information

Prior Introductions: In 2002, HB 665 and SB 757, which would have added and altered fines and penalties for a variety of specified crimes, received unfavorable reports from the House Judiciary Committee and Senate Judicial Proceedings Committee, respectively. The provisions of this bill were contained therein.

Cross File: HB 303 (Delegate Doory) – Judiciary.

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

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