

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1462 (Delegate Amedori, *et al.*)
Judiciary

**Homicide - Use of Deadly Force in a Business Establishment or Residence -
Defense**

This bill creates a statutory presumption that a person who uses deadly force or force likely to cause death holds a reasonable fear of imminent peril of death or serious physical injury to the person or specified others if the force is used against another who unlawfully and forcibly enters or has entered the person's business establishment or residence. In a business establishment, this includes a fear of harm to the person's employee. In a residence, it includes a fear of harm to the person's family or household members. A person using deadly force under one of these circumstances is not civilly liable for any act arising from such use of deadly force to protect the person or the specified others.

The bill applies retroactively to any action occurring on or after January 1, 2001.

Fiscal Summary

State Effect: This bill is procedural in nature and is not expected to materially affect governmental finances.

Local Effect: None – see above.

Small Business Effect: Minimal.

Analysis

Current Law: Under Maryland case law, use of deadly force is permissible only when reasonably necessary to protect oneself from imminent threat of death or serious injury, even in resistance of a robbery, burglary, or other assault or felony. *Sydnor v. State*, 365 Md. 205 (2001), *cert., denied*, 534 U.S. 1090 (2002). A person has a duty, if safely possible: (1) to avoid danger; and (2) except for within one's own home, to retreat. *Id.* Use of deadly force traditionally has not been permissible in defense of property alone.

Additional Information

Prior Introductions: HB 606 of 2002 received an unfavorable report from the House Judiciary Committee. A similar bill, SB 742 of 2002, passed the Senate with amendments, but no further action was taken. Similar bills were also introduced in the 2001 session as SB 901 and its cross file, HB 1462. SB 901 passed the Senate with amendments but was not reported out of the House Rules and Executive Nominations Committee. HB 1462 was referred to the Judiciary 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 - March 19, 2004
ncs/jr

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