

Department of Legislative Services
Maryland General Assembly
2008 Session

FISCAL AND POLICY NOTE

House Bill 1060
Judiciary

(Delegate Frank, *et al.*)

Judicial Proceedings

Victims of Crime - Burglary and Crimes of Violence - Civil Immunity

This bill provides that a person may not be liable for damages for a personal injury or death of an individual who enters the person's dwelling or place of business with the intent to commit a crime of violence or a burglary in the first, second, or third degree. Immunity does not attach if the person acts with malice or gross negligence. "Person" does not include a government entity. The bill does not limit or abrogate any immunity from civil liability or defense available to a person under any other provision of the Maryland Code or at common law.

The bill applies only prospectively to actions that arise on or after the bill's October 1, 2008 effective date.

Fiscal Summary

State Effect: None. The bill would not materially affect the Judiciary's workload.

Local Effect: None. The bill would not materially affect the workload of the circuit courts.

Small Business Effect: None.

Analysis

Current Law: A person who has reasonable grounds to believe that the person is being attacked may use force that is reasonably necessary for protection against the potential

injury. A person may not use force that is likely to cause death or serious bodily injury unless the person reasonably believes that he or she is in danger of serious bodily injury.

Section 14-101 of the Criminal Law Article defines a “crime of violence” to include a number of specific crimes, including abduction, arson, kidnapping, manslaughter, murder, rape, carjacking, first or second degree sexual offense, various types of assault, and attempts to commit the above crimes.

Background: In evaluating claims of self-defense in the criminal context, some states, like Maryland, have adopted a standard known as the “castle doctrine.” Under the castle doctrine, “a man faced with the danger of an attack upon his dwelling need not retreat from his home to escape the danger, but instead may stand his ground and, if necessary to repel the attack, may kill the attacker.” See *Burch v. State*, 346 Md. 253, 283-4, 696 A.2d 443, 458 (1997) quoting *Crawford v. State*, 231 Md. 354, 361, 190 A.2d 538, 541 (1963).

In 2005, Florida enacted castle doctrine legislation that includes immunity from criminal prosecution and civil action and provisions awarding court costs and fees. Without such an immunity clause, an assailant may sue for medical bills and other damages as a result of any injuries that are inflicted by an individual who was a victim of a crime at the time the injuries were inflicted.

Additional Information

Prior Introductions: HB 646 of 2005, an identical bill, passed the House and received a hearing in the Senate Judicial Proceedings Committee but no further action was taken. HB 1263 of 2004, an identical bill, passed the House and received a hearing in Judicial Proceedings but no further action was taken.

Cross File: None.

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

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mll/jr

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