

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 776
Judiciary

(Delegate Lee, *et al.*)

Criminal Law - Home Invasion Crime of Violence

This bill prohibits a person from breaking and entering into the dwelling of another person and committing a crime of violence against a lawful occupant of the dwelling (“home invasion”). A violator is guilty of a felony, punishable by imprisonment for up to 30 years. A person is also prohibited from committing a home invasion while using or displaying a dangerous weapon. A violator is guilty of a felony and is subject to a maximum penalty of imprisonment for 30 years, which must run consecutively to a sentence imposed for any crime establishing the violation of the home invasion statute.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill’s enhanced penalties for this type of offense and the requirement that sentences run consecutively.

Local Effect: None. The bill does not materially affect local finances.

Small Business Effect: None.

Analysis

Current Law: 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 first-degree burglary, a felony punishable by up to 20 years imprisonment.

A person may not break and enter the dwelling of another with the intent to commit a crime. A violator is guilty of burglary in the third degree, a felony punishable by up to

10 years imprisonment. Burglary in the second degree involves breaking and entering a storehouse, not a dwelling.

A person who breaks and enters the dwelling of another or is in or on the dwelling of or an area belonging to the dwelling of another with the intent to commit theft is guilty of burglary in the fourth degree, a misdemeanor punishable by up to three years imprisonment.

A “crime of violence” is: (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first and second degree sexual offenses; (12) use of a handgun in the commission of a felony or other crime of violence; (13) child abuse in the first degree; (14) sexual abuse of a minor under the age of 13 years under specified circumstances; (15) an attempt to commit crimes (1) through (14); (16) continuing course of conduct with a child; (17) assault in the first degree; or (18) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

Background: In many states, home invasions are treated as a form of burglary. Connecticut, Illinois, and Michigan are among the states that have specific home invasion statutes.

In fiscal 2009, the Division of Correction (DOC) conducted intake on 520 individuals for burglary offenses. Of these individuals, 186 were convicted of first-degree burglary. According to the most recent version of the *Uniform Crime Report*, there were 38,849 reports of breaking and entering during 2008, a 5% increase over 2007. The report defines “breaking and entering” as the unlawful entry of a structure to commit a felony or theft. There were 7,495 arrests for burglary statewide during 2008, compared to 7,104 arrests during 2007.

State Expenditures: The bill imposes a maximum penalty of 30 years imprisonment for home invasion, which is greater than the current 20 year maximum penalty for first-degree burglary, the most severe form of burglary. Also, a sentence imposed for home invasion must run consecutively to a sentence imposed for any crime establishing the violation of the home invasion statute. As a result, general fund expenditures increase minimally as a result of the bill’s incarceration penalty due to people being committed to DOC facilities for longer periods of time.

Persons serving a sentence longer than 18 months are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$2,750 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

DOC inmate (including variable medical care and variable operating costs) is \$409 per month. Excluding all medical care, the average variable costs total \$182 per month.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); State's Attorneys' Association; Connecticut OLR Research Report; "Home Invasion Laws in Other States," February 6, 2008; Department of Legislative Services

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