

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 386 (Senator Jacobs, *et al.*)
Judicial Proceedings

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

This bill specifies that a person is not liable for damages for a personal injury or the 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, however, 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 prospectively to actions that arise on or after the bill's October 1, 2010 effective date.

Fiscal Summary

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

Local Effect: None. The bill does 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 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.” *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).

As of early 2009, 21 states (Alabama, Alaska, Arizona, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, West Virginia, and Wyoming) had enacted castle doctrine legislation in recent years. With the exception of Indiana and South Dakota, the enacted legislation in all of the states addressed civil liability. Many of the civil immunity provisions preclude assailants from suing 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 and direct courts to award court costs and fees to victims.

Additional Information

Prior Introductions: SB 420 of 2009 received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. HB 332 of 2009, HB 1060 of 2008, HB 646 of 2005, and HB 1463 of 2004 passed the House and were heard in the Senate Judicial Proceeding Committee, but no further action was taken.

Cross File: Though not designated as a cross file, this bill is identical to HB 207 as introduced. (Delegate Frank, et al.) – Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Public Safety and Correctional Services; *Castle Doctrine and Self Defense on Civil Cases*, Connecticut Office of Legislative Research Report 2008-R-0320, May 30, 2008; *The Columbus Dispatch*; Department of Legislative Services

Fiscal Note History: First Reader - March 5, 2010
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