

Department of Legislative Services  
Maryland General Assembly  
2011 Session

FISCAL AND POLICY NOTE

House Bill 790  
Judiciary

(Delegate Lee, *et al.*)

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Criminal Law - Home Invasion Violent Crime

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This bill establishes the offense of home invasion violent crime. A person may not break and enter the dwelling of another person and commit one or more specified violent crimes against a lawful occupant of the dwelling. Violators are guilty of a felony and subject to a maximum penalty of 30 years imprisonment. A sentence imposed for this offense may be separate from and consecutive to the any other crime that arises from the conduct underlying the home invasion violent crime.

The bill also adds “home invasion violent crime” to the definition of “crime of violence” in the Criminal Law Article.

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Fiscal Summary

**State Effect:** Minimal increase in general fund expenditures due to the bill’s enhanced penalties for this type of offense.

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

**Small Business Effect:** None.

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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.

A conviction for a “crime of violence” has several employment and correctional consequences, including ineligibility for certain jobs and occupational licenses, a reduced rate for earning diminution credits, and limited parole eligibility.

**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 2010, the Division of Correction (DOC) conducted intake on 580 individuals for burglary offenses. Of these individuals, 241 were convicted of first-degree burglary. According to the most recent version of the *Uniform Crime Report*, there were 36,905 reports of breaking and entering during 2009, a 5% decrease over 2008. The report defines “breaking and entering” as the unlawful entry of a structure to commit a felony or theft. There were 6,663 arrests for burglary statewide during 2009, compared to 7,495 arrests during 2008.

**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. 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 \$2,920 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 about \$390 per month. Excluding all medical care, the average variable costs total \$170 per month.

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### **Additional Information**

**Prior Introductions:** HB 776 of 2010, a similar bill, received a hearing in the House Judiciary Committee. No further action was taken.

**Cross File:** None.

**Information Source(s):** Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Connecticut OLR Research Report, *Home Invasion Laws in Other States*, February 6, 2008; Department of Legislative Services

**Fiscal Note History:** First Reader - March 8, 2011  
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