

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 742

(Senator Forehand, *et al.*)

Judicial Proceedings

Rules and Executive Nominations

Criminal Law - Burglary in the First Degree - Home Invasion

This bill establishes that a person who breaks and enters the dwelling of another with the intent to commit a crime of violence is guilty of the felony of home invasion under the burglary in the first degree statute, punishable by imprisonment for up to 25 years. The bill retains the application of the current maximum penalty for first-degree burglary (imprisonment for 20 years) to individuals who break and enter the dwelling of another with the intent to commit a theft.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill's incarceration penalty. Enforcement can be handled with existing resources. Revenues are not affected.

Local Effect: None. The bill does not materially affect local finances as enforcement can be handled with existing resources.

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 imprisonment for up to 20 years.

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 2013, the Department of Public Safety and Correctional Services (DPSCS) conducted intake on 385 individuals for first degree burglary. Information is not readily available on how many of these individuals committed a breaking and entering with the intent to commit a crime of violence (as opposed to the intent to commit a theft). According to the most recent version of the *Uniform Crime Report*, there were 33,472 reports of breaking and entering during 2012, a 6% decrease over 2011. The report defines “breaking and entering” as the unlawful entry of a structure to commit a felony or theft. There were 7,380 arrests for burglary statewide during 2012.

State Expenditures: The bill imposes a maximum penalty of 25 years imprisonment for a home invasion, which is greater than the existing 20-year maximum penalty under the first degree burglary statute, under which the actions that constitute a home invasion are already prohibited. Thus, general fund expenditures increase minimally as a result of the bill’s incarceration penalty due to people being committed to State correctional facilities for longer periods of time.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 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 State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 per month.

Additional Information

Prior Introductions: None.

Cross File: HB 807 (Delegate Lee, *et al.*) - Judiciary.

Information Source(s): Office of the Public Defender, Judiciary (Administrative Office of the Courts), Maryland State Commission on Criminal Sentencing Policy, *Crime in Maryland – 2012 Uniform Crime Report*, Department of Legislative Services

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