

Department of Legislative Services
Maryland General Assembly
2019 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 194

(Senator Lee, *et al.*)

Judicial Proceedings

Public Safety - Crime of Violence - Witness Intimidation

This bill adds felony witness intimidation under §§ 9-302, 9-303, and 9-305 of the Public Safety Article to the definition of a “crime of violence” under § 5-101 of the Public Safety Article.

Fiscal Summary

State Effect: The bill does not affect State finances or operations, as discussed below.

Local Effect: The bill does not affect local finances or operations, as discussed below.

Small Business Effect: None.

Analysis

Current Law: Sections 9-302, 9-303, and 9-305 of the *Public Safety Article* refer to various requirements for fast response residential sprinkler systems in hotels and motels. A county fire chief, fire administrator, or municipal fire chief may enforce these provisions. A person who violates Title 9, Subtitle 3 of the Public Safety Article is guilty of a misdemeanor, punishable by imprisonment for up to 10 days and/or a \$1,000 maximum fine.

Sections 9-302, 9-303, and 9-305 of the *Criminal Law Article* refer to witness intimidation offenses.

§ 5-101 of the Public Safety Article

Section 5-101 defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) home invasion; (17) an attempt to commit offenses (1) through (16); or (18) assault with the intent to commit offenses (1) through (16) or a crime punishable by imprisonment for more than one year.

This definition is cross-referenced in statutes pertaining to reckless endangerment, committing a crime in the presence of a minor, use of a handgun or antique firearm in the commission of a crime, use of an assault weapon or magazine in the commission of a felony or a crime of violence, and possession of a regulated firearm, a rifle, or a shotgun by a person previously convicted of specified offenses.

State law contains several factors which prohibit a person from possessing a regulated firearm, a rifle, or a shotgun, including if the person has been convicted of a disqualifying crime. “Disqualifying crime” means a crime of violence under § 5-101 of the Public Safety Article, a felony, or a misdemeanor in the State that carries a statutory penalty of imprisonment of more than two years.

“Convicted of a disqualifying crime” includes a case in which a person received probation before judgment for a crime of violence and a case in which a person received probation before judgment in a domestically related crime. “Convicted of a disqualifying crime” does not include a case in which a person received a probation before judgment for second-degree assault (unless the crime was a domestically related crime) or a crime which was expunged under Title 10, Subtitle 1 of the Criminal Procedure Article.

A “domestically related crime” (under § 6-233 of the Criminal Procedure Article) is a crime committed by a defendant against a victim who is a “person eligible for relief” (under § 4-501 of the Family Law Article) or is a person who had a sexual relationship with the defendant within 12 months before the commission of the crime. Under the applicable provisions of the Family Law Article, a “person eligible for relief” includes (1) the current or former spouse of the respondent; (2) a cohabitant of the respondent; (3) a person related to the respondent by blood, marriage, or adoption; (4) a parent, stepparent, child, or stepchild of the respondent or the person eligible for relief who resides or resided with the respondent or person eligible for relief for at least 90 days within one year before the filing of the petition; (5) a vulnerable adult; (6) an individual who has a child in common with

the respondent; or (7) an individual who has had a sexual relationship with the respondent within one year before the filing of the petition.

In general, a person who violates this prohibition is guilty of a misdemeanor and subject to maximum penalties of five years imprisonment and/or \$10,000 fine.

State/Local Fiscal Effect: The bill applies to §§ 9-302, 9-303, and 9-305 of the *Public Safety Article*, which, as noted above, refer to specified sprinkler system requirements. However, §§ 9-302, 9-303, and 9-305 of the *Criminal Law Article* refer to witness intimidation crimes. Because sprinkler system violations are not related to felony witness intimidation, it is assumed that the bill has no effect on State or local operations or finances.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

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an/kdm

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