

Department of Legislative Services  
Maryland General Assembly  
2026 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1406  
Judiciary

(Delegate Smith, *et al.*)

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**Criminal Law - Self-Defense - Prior Acts by Victim**

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This bill authorizes a person charged with murder or manslaughter in any degree or a crime under Title 3, Subtitle 2 of the Criminal Law Article (Assault, Reckless Endangerment, and Related Crimes) to assert the defense that the person acted in self-defense. The person need not prove that the person believed danger was imminent or immediate if the victim had previously committed (1) an assault in any degree against the person or (2) an act constituting sexually assaultive behavior against the person, as defined in § 10-923 of the Criminal Law Article.

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**Fiscal Summary**

**State Effect:** The bill is not anticipated to materially affect State finances or operations.

**Local Effect:** The bill is not anticipated to materially affect local government finances or operations.

**Small Business Effect:** None.

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**Analysis**

**Current Law:**

*Sexually Assaultive Behavior*

“Sexually assaultive behavior” means an act that would constitute a sexual crime under Title 3, Subtitle 3 of the Criminal Law Article; sexual abuse of a minor under § 3-602 of the Criminal Law Article; sexual abuse of a vulnerable adult under § 3-604 of the Criminal Law Article; a violation of 18 U. S. Code Chapter 109A; or a violation of a law of another state, the United States, or a foreign country that is equivalent to any of these offenses.

## *Self-Defense*

Self-defense is a common law doctrine that has been addressed by Maryland courts on numerous occasions. To succeed on a claim of self-defense, the accused must have (1) not been the aggressor or provoked the conflict; (2) had reasonable grounds to believe that he or she was in apparent imminent or immediate danger of losing his/her own life or incurring serious bodily harm from his/her assailant or potential assailant; (3) actually believed at the time that he or she faced this type of danger; and (4) not used more force than the situation demanded. See *Marquardt v. State*, 164 Md. App. 95, 140 (2005). See also *Sydnor v. State*, 365 Md. 205, 216, A.2d 669, 675 (2001).

Included in the doctrine of self-defense is a duty to retreat, that is, a duty by the individual claiming self-defense to retreat and escape the danger if it was in his/her power to do so and was consistent with maintaining his/her safety. See *Sydnor*, 365 Md. at 216, 776 A.2d at 675. Use of deadly force traditionally has not been permissible in defense of property alone. Traditionally, under the common law, the right to the use of deadly force in self-defense did not apply until the claimant “retreated to the wall.”

Some states, like Maryland, have adopted an exception to the duty to retreat known as the “castle doctrine.” Under the castle doctrine, “a man faced with the danger of an attack upon his/her dwelling need not retreat from his/her home to escape the danger, but instead may stand their 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). Nationally, courts are divided as to whether a duty to retreat exists under the castle doctrine in situations involving cohabitants, guests, and invitees.

**Additional Comments:** According to the Judiciary, in fiscal 2025, there were 65,894 filings (charges) and 6,304 guilty dispositions for a person charged with murder, manslaughter, or a crime under Title 3, Subtitle 2 of the Criminal Law Article in the State’s trial courts.

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## **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - March 9, 2026  
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