



HOUSE COMMITTEE ON APPROPRIATIONS
2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 40

PRINTER'S NO: 3799

PRIME SPONSOR: Perry

FISCAL IMPACT SUMMARY	FY 20010/11	FY 2011/12
Expenditure Increase/(Decrease):		
General Fund	*See analysis	*See analysis

OVERVIEW:

House Bill 40 amends Title 18 by creating a presumption that an attacker or intruder intends to do great bodily harm, and therefore an individual can use force – including deadly force – to protect himself or another if the intruder is forcefully entering a residence, dwelling, occupied vehicle, or any other place where the individual has a right to be. The amendment eliminates the duty to retreat before using lethal force outside of an individual’s home, dwelling, vehicle, or any other place where the individual has a right to be. The definition of “dwelling” is expanded to include any attached porch, deck, or patio.

House Bill 40 also amends Title 42 by creating immunity for civil liability from personal injuries sustained by the attacker or intruder.

This legislation also provides for theft to constitute a felony of the second degree if:

1. The offense is committed during a manmade disaster, a natural disaster or a war-caused disaster and constitutes a violation of §3921 (relating to theft by unlawful taking or disposition), §3925 (relating to receiving stolen property), §3928 (relating to unauthorized use of automobiles and other vehicles), or §3929 (relating to retail theft).
2. The property stolen is a firearm.
3. In the case of theft by receiving stolen property, the property received, retained, or disposed of is a firearm.
4. The property stolen is any amount of anhydrous ammonia.

This bill would also make it a felony of the first degree in the case of theft by receiving stolen property, if the property received, retained, or disposed of is a firearm and the receiver is in the business of buying or selling stolen property.

Under House Bill 40, theft constitutes a felony of the third degree if the amount involved exceeds \$2,000, or if the property stolen is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, or in the case of theft by receiving stolen property, if the receiver is in the business of buying or selling stolen property.

The definition of “loaded” as it relates to a firearm is also expanded.

House Bill 40 also provides that a Commonwealth agency is not authorized to regulate the possession of firearms.

This act takes effect in 60 days.

ANALYSIS:

The fiscal impact on Commonwealth funds as it relates to the "Castle Doctrine" portion of the bill is unquantifiable.

A felony of the first degree is punishable by a maximum of 20 years in a prison and a maximum fine of \$25,000. A felony of the second degree is punishable by a maximum of 10 years in prison and a maximum fine of \$25,000. A felony of the third degree is punishable by a maximum of seven years in prison and a maximum fine of \$15,000.

The average cost in 2010 for incarcerating an offender in a state correctional institution is approximately \$35,000 per year (including health care). According to the Board of Probation and Parole, in 2010 the average cost for state parole supervision was \$3,000 per year. The average cost in 2010 for incarceration in a county jail is approximately \$50 per day or \$18,250 per year. The average cost for supervising a county adult offender in 2010 was \$800 per year.

It is not possible to determine how many individuals may be sentenced under this legislation; nor is it possible to predict what type of sentencing individuals may receive as are result of conviction. However, it is assumed that there may be a fiscal impact on both commonwealth funds and local funds as a result of the enactment of this legislation. According to the Pennsylvania Commission on Sentencing, in 2009 there were 95 individuals who were sentenced for theft of a firearm as a receiver in the business of buying/selling stolen property.

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General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*