

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 1396
Judiciary

(Delegate Conaway, *et al.*)

Judicial Proceedings

Criminal Law - Theft-Related Crimes - Penalties

The bill alters the penalties for several offenses to reflect the changes to the theft statute made by Chapter 655 of 2009. The bill also amends the charging document for robbery to reflect Chapter 655 and amends the “Notice of Dishonored Check” form to reflect the amended penalties under the bill.

Fiscal Summary

State Effect: Minimal increase in general fund revenues from monetary penalties imposed in cases shifted from the circuit courts to the District Court. Minimal decrease in general fund expenditures from reduced incarceration penalties under the bill.

Local Effect: Minimal decrease in revenues from monetary penalties imposed in cases shifted from the circuit courts to the District Court. Minimal increase in local expenditures if the bill shifts individuals from State detention facilities to local detention facilities.

Small Business Effect: None.

Analysis

Bill Summary/Current Law: Chapter 655 of 2009 (HB 66) increased the maximum property value for misdemeanor theft from less than \$500 to less than \$1,000 and created the three tiers of felony theft listed below:

Value of Property and/or Services

Maximum Penalty

At least \$1,000 and less than \$10,000	10 years imprisonment and/or a \$10,000 fine
At least \$10,000 and less than \$100,000	15 years imprisonment and/or a \$15,000 fine
At least \$100,000 or more	25 years imprisonment and/or a \$25,000 fine

The bill modifies the penalties for several offenses to reflect Chapter 655, as shown in **Appendix 1**.

Background: **Exhibit 1** contains data on the number of violations filed in the District Court and the number of circuit court convictions for offenses affected by the bill.

Exhibit 2
Number of District Court Violations and Circuit Court Convictions for
Affected Offenses
Fiscal 2012

<u>Offense</u>	District Court Filed Violations Fiscal 2012	Circuit Court Convictions Fiscal 2012
Extortion	70	3
Extortion by Government Officer or Employee	4	0
Malicious Destruction of Property	13,939	64
Obtaining Property or Services by Bad Check	0	19
Obtaining Property or Services by Counterfeiting, Theft, or Misrepresentation	2,358	18*
Fraud – Honoring stolen or counterfeit credit card, etc.	2	
Receiving property by stolen or counterfeit credit card, etc.	96	
Identity Fraud (all offenses)	2,246	25
Unauthorized Possession of Benefit Card	Not Provided	1
Exploitation of a Vulnerable Adult	97	11

*The database for the Maryland Commission on Criminal Sentencing Policy is unable to distinguish between convictions for these three offenses.

Source: Judiciary (Administrative Office of the Courts), Maryland Commission on Criminal Sentencing Policy

State Fiscal Effect: Given the extent of the bill’s alterations to existing criminal penalties and the lack of data on where current criminal defendants would fall within the

proposed offense brackets, it is difficult to quantify the fiscal effect of the bill without actual experience under the bill. The overall impact depends on (1) where criminal defendants will fall within the proposed offense brackets; (2) the net movement of criminal defendants from higher level offenses/penalties to lower level offenses/penalties; and (3) to what extent criminal defendants are sentenced to the maximum incarceration and monetary penalties available for their respective offenses.

However, assuming that the most notable change under the bill is the reclassification of felonies to misdemeanors, general fund expenditures increase minimally from monetary penalties imposed in the District Court, and general fund expenditures decrease minimally from reduced incarceration penalties under the bill, as discussed below.

Monetary Penalties

The bill makes several changes to penalties for existing offenses, the most notable of which is reclassifying a number of offenses from felonies to misdemeanors. Since felonies are heard in the circuit courts and misdemeanor cases are heard in the District Court, these cases will be shifted from the circuit courts to the District Court. As a result, revenues from monetary penalties imposed in these cases become general fund revenues.

Incarceration Penalties

General fund expenditures decrease minimally for the Department of Public Safety and Correctional Services if the net effect of the bill is reduced incarceration penalties imposed on criminal defendants and the shifting of individuals from State correctional facilities to local detention facilities.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of the State but are confined in a local facility.

Local Revenues: Local revenues decrease minimally from monetary penalties imposed in cases shifted from the circuit courts to the District Court.

Local Expenditures: Expenditures increase minimally if the net effect of the bill is an overall shift in individuals from State correctional facilities to local detention facilities.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

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, Department of Public Safety and Correctional Services, Department of Legislative Services

Fiscal Note History: First Reader - March 15, 2013
ncs/kdm

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Appendix 1 – Changes to Penalties under the Bill

Offense	Current Penalty	Penalty under the Bill
<i>Extortion</i>	Less than \$500 – Misdemeanor, 18 months and/or \$500 \$500 or more – Felony, 10 years and/or \$5,000	Less than \$1,000 – Misdemeanor, 18 months and/or \$1,000 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000
<i>Extortion by Government Officer or Employee</i>	Less than \$500 – Misdemeanor, 6 months and/or \$500 \$500 or more – Felony, 10 years and/or \$5,000	Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000
<i>Malicious Destruction of Property</i>	Less than \$500 – Misdemeanor, 60 days and/or \$500 \$500 or more – Misdemeanor, 3 years and/or \$2,500 Indeterminate Bracket – Use Less than \$500	Less than \$1,000 – Misdemeanor, 60 days and/or \$500 \$1,000 or more – Misdemeanor, 3 years and/or \$2,500 Indeterminate Bracket – Use Less than \$1,000
<i>Obtaining Property or Services by Bad Check</i>	Less than \$100 – Misdemeanor 90 days and/or \$500 Less than \$500 – Misdemeanor, 18 months and/or \$100 \$500 or more – Felony, 15 years and/or \$1,000 Multiple checks, each less than \$500, total value is \$500 or more – Felony, 15 years and/or \$1,000	Less than \$100 Unchanged Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000 Multiple checks, each less than \$1,000, total value is \$1,000 or more – Felony, 10 years and/or \$10,000
<i>Obtaining Property or Services by Counterfeiting, Theft, or Misrepresentation</i>	Up to \$100 – Misdemeanor, 90 days and/or \$500 Up to \$500 – Misdemeanor, 18 months and/or \$500 Exceeds \$500– Felony, 15 years and/or \$1,000	Up to \$100 – Unchanged Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000

Offense	Current Penalty	Penalty under the Bill
<i>Fraud – Honoring stolen or counterfeit credit card, etc.</i>	Up to \$100 – Misdemeanor 90 days and/or \$500 Up to \$500 – Misdemeanor, 18 months and/or \$500 Exceeds \$500 – Felony, 15 years and/or \$1,000	Up to \$100 – Unchanged Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000
<i>Receiving property by stolen or counterfeit credit card, etc.</i>	Up to \$100 – Misdemeanor 90 days and/or \$500 Up to \$500 – Misdemeanor, 18 months and/or \$500 Exceeds \$500 – Felony, 15 years and/or \$1,000	Up to \$100 – Misdemeanor 90 days and/or \$500 (unchanged) Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000
<i>Identity Fraud – (Criminal Law, §8-301(b), (c), or (d), etc.</i>	Less than \$500 – Misdemeanor, 18 months and/or \$5,000 At least \$500 – Felony, 15 years and/or \$25,000	Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000
<i>Identity Fraud – Other Specified Offenses (Criminal Law, §8-301(c)(1), (e), or (f)</i>	Misdemeanor, 18 months and/or \$5,000	Misdemeanor, 18 months and/or \$500
<i>Identity Fraud – Intent to Manufacture Information, etc.</i>	Felony, 15 years and/or \$15,000	Unchanged
<i>Unauthorized Possession of Benefit Card</i>	\$500 or more – Felony, 5 years and/or \$100,000 Other violations are unchanged	\$1,000 or more – Felony, 5 years and/or \$100,000 Other Violations are unchanged
<i>Exploitation of a Vulnerable Adult</i>	Less than \$500 – Misdemeanor, 18 months and/or \$500 \$500 or more – Felony, 15 years and/or \$10,000	Less than \$1,000 – Misdemeanor, 18 months and/or \$500 \$1,000 – less than \$10,000 – Felony, 10 years and/or \$10,000 \$10,000 – less than \$100,000 – Felony, 15 years and/or \$15,000 \$100,000 or more – Felony, 25 years and/or \$25,000