

MARYLAND JUDICIAL CONFERENCE
GOVERNMENT RELATIONS AND PUBLIC AFFAIRS

Hon. Matthew J. Fader
Chief Justice

187 Harry S. Truman Parkway
Annapolis, MD 21401

MEMORANDUM

TO: House Judiciary Committee
FROM: Legislative Committee
Suzanne D. Pelz, Esq.
410-260-1523
RE: House Bill 948
Organized Retail Theft – Venue for Prosecution, Warrantless
Arrest Authority, and Court Finding
DATE: February 7, 2024
(2/20)
POSITION: Oppose

The Maryland Judiciary opposes House Bill 948. The bill adds language to Criminal Law Article § 7-103(f) allowing prosecution of multiple thefts committed by the same person in multiple counties, in any county in which at least one of the thefts occurred. The bill also allows for warrantless arrests for a theft of property or service less than \$1,500 in Criminal Procedure Article § 2-203(b)(4). The bill establishes Criminal Procedure Article § 6-237 in which organized retail theft is reported to the Criminal Justice Information System Central Repository in accordance with Criminal Procedure Article § 10-215.

While the legislature is authorized to determine venue, the bill may result in charging numerous co-defendants, including those that may have no connection to one another or to the jurisdiction (p. 3, line 20). This poses due process and constitutional concerns by admitting evidence that would not be mutually admissible if the trials were separated and is unduly prejudicial to one or more defendants. The bill may also extend the length of trials and may delay scheduling trials in coordinating the availability of the court, the State, and various defense counsel.

The Judiciary acknowledges the legislature’s intent to identify cases involving “organized retail theft” similarly to cases identified as “domestically related,” however, having the court make a finding of fact based on evidence produced at trial is problematic (p. 3, lines 31-32). First, the case may be disposed of by plea instead of trial. Second, the court’s finding may be based on inadmissible and prejudicial evidence. Third, to report an event into the Criminal Justice Information System Central Repository, the State must prove “organized retail theft” by a preponderance of evidence while, at the same time, prosecuting a criminal offense beyond a reasonable doubt standard.

cc. Hon. Karen Toles

Judicial Council
Legislative Committee
Kelley O'Connor