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POSITION ON SENATE BILL 11

BILL: SB 11-- Criminal Law – Organized Retail Theft

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: 1/21/2025

The Maryland Office of the Public Defender respectfully requests that the Committee issue an unfavorable report on Senate Bill 11.

This proposed legislation seeks to remove the rights of an individual charged with allegations of multiple thefts in multiple jurisdictions. By lumping together multiple thefts alleged to be committed by the same person in multiple counties, and allowing for them to be prosecuted in ANY county in which any of the alleged thefts occurred, the rights of the accused to file a motion for severance of their counts, to provide a defense, and to challenge jurisdiction, are violated. There may be a legal defense in one county or multiple counties that would require a severance of the counts. In addition, there may be co-defendants that require severance of the counts in multiple jurisdictions. Moreover, there may be different legal defenses that uniquely apply to a county or counties where the alleged theft occurred.

This proposed legislation also allows for multiple prosecutions. § 7-104.1 (D) (1) states: “THIS SECTION DOES NOT PRECLUDE PROSECUTION FOR THEFT UNDER § 7–104 OF THIS SUBTITLE.” Although the convictions will merge for sentencing purposes, this results in overbroad and duplicative measures. Theft scheme or continuing course of conduct is currently addressed in §7-103(f) Course of conduct—Aggregation, which states:

- (f) When theft is committed in violation of this part under one scheme or continuing course of conduct, whether from the same or several sources:
 - (1) the conduct may be considered as one crime; and
 - (2) the value of the property or services may be aggregated in determining whether the theft is a felony or a misdemeanor.

As there is already a statute in place for theft scheme or continuing course of conduct, there is no need for this broad and overreaching bill.

Finally, this bill creates new felony convictions. Felonies are the highest level of crime. As such, people with felony convictions face increased challenges in gaining employment. Eighty-seven percent of employers conduct background checks. Most employers do not hire people with felony convictions and/or who have served time in prison. Sixty percent of incarcerated people remain unemployed one year after their release. This inability to gain employment desperately impacts a person's quality of life and ability to establish a livelihood without committing crime. Without the possibility of stable housing and income to provide for food and other necessities, people are forced to partake in illegal and not unsafe measures, increasing the risk of crime and making our communities less are not safe. Additionally, people with felony convictions are excluded from participating in food supplement programs in Maryland. With the prices of food on the rise, limited income and no access to food supplement programs, the options for a convicted felon to survive and meet their basic needs without reoffending are little to none.

Additionally, felonies result in many collateral consequences. Collateral consequences are legal restrictions that disqualify people convicted of crimes from accessing certain needs and benefits available to other citizens. Many of the collateral consequences experienced by people with felony convictions involve very basic needs, including employment, housing and public food benefits. In particular, a person with a felony conviction faces significant barriers accessing housing, especially affordable housing because of their conviction. Most, if not all, government housing disqualifies applicants with felony convictions. Furthermore, families that live in public housing or have housing through a government voucher, are often not allowed to have family members with felony convictions live with them. Additionally, most landlords often do background checks and do not rent to people with criminal backgrounds and specifically felony charges. They could also be prohibited from reunifying with their families if their family lives in any form of public housing.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on Senate Bill 11.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.