
By: Senators Stone, Boozer, and Middlebrooks (Committee to Revise Article 27)

Introduced and read first time: February 2, 1996

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes - Theft, Bad Checks, and Credit Card Offenses - District Court Offenses**

3 FOR the purpose of adding certain crimes concerning theft, bad checks, and credit cards
4 for the purpose of requiring trial in the District Court; prohibiting the trial of these
5 crimes in the circuit court under certain circumstances; providing certain
6 exceptions; providing that certain factors are not defenses to these crimes; providing
7 that these crimes are not lesser included offenses of certain other offenses;
8 providing a charging document form for a theft under this Act; and generally
9 relating to criminal charges in the District Court.

10 BY repealing and reenacting, without amendments,
11 Article 27 - Crimes and Punishments
12 Section 143(d)
13 Annotated Code of Maryland
14 (1992 Replacement Volume and 1995 Supplement)

15 BY adding to
16 Article 27 - Crimes and Punishments
17 Section 143A, 145A, and 342B
18 Annotated Code of Maryland
19 (1992 Replacement Volume and 1995 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article 27 - Crimes and Punishments
22 Section 344
23 Annotated Code of Maryland
24 (1992 Replacement Volume and 1995 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article 27 - Crimes and Punishments**

2 143.

3 (d) In addition to the penalties provided in this section for conviction of the
4 offense of obtaining property or services by a bad check the court may:

5 (1) Order restoration of any property which has been the object of the
6 offense and has been recovered from the defendant or another, or which is in the
7 defendant's possession or control, to any person or persons having a property interest
8 therein;

9 (2) Order restitution of the value of any property or services which has been
10 the object of the offense. The restitution may be ordered to be paid to any person having
11 a property interest in the property or the person who provided the services. Restitution
12 may be ordered to the extent that the property is not restored or compensation has not
13 been provided for the services; and

14 (3) Order the defendant to pay a collection fee of up to \$25 for each bad
15 check to the person having a property interest in the property or the person who provided
16 the services.

17 143A.

18 (A) (1) A PERSON COMMITS A BAD CHECK OFFENSE UNDER THIS SECTION
19 WHEN THE PERSON COMMITS A BAD CHECK OFFENSE, AS DEFINED UNDER § 143 OF
20 THIS SUBHEADING, WHERE THE PROPERTY OR SERVICES OBTAINED HAVE A VALUE
21 OF LESS THAN \$100.

22 (2) IT IS NOT A DEFENSE THAT THE VALUE OF THE PROPERTY OR
23 SERVICES OBTAINED IS \$100 OR MORE.

24 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
25 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR
26 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

27 (C) (1) AN OFFENSE UNDER THIS SECTION MAY BE TRIED IN THE DISTRICT
28 COURT ON A STATEMENT OF CHARGES, CITATION, OR CRIMINAL INFORMATION
29 FILED IN THE DISTRICT COURT.

30 (2) AN OFFENSE UNDER THIS SECTION MAY NOT BE TRIED IN THE
31 CIRCUIT COURT UNLESS:

32 (I) AN APPEAL IS TAKEN FROM A CONVICTION IN THE DISTRICT
33 COURT; OR

34 (II) THERE IS ANOTHER CHARGE ARISING OUT OF THE SAME
35 CIRCUMSTANCES WHICH ENTITLES THE DEFENDANT TO A TRIAL IN THE CIRCUIT
36 COURT.

37 (D) UNLESS A BAD CHECK OFFENSE UNDER THIS SECTION IS SPECIFICALLY
38 CHARGED, A BAD CHECK OFFENSE UNDER THIS SECTION MAY NOT BE TREATED AS
39 A LESSER INCLUDED OFFENSE OF ANY GREATER OFFENSE DEFINED IN THIS
40 ARTICLE OR AT COMMON LAW.

3

1 (E) A PERSON WHO IS CONVICTED UNDER THIS SECTION IS SUBJECT TO THE
2 PROVISIONS OF § 143(D) OF THIS SUBHEADING.

3 145A.

4 (A) (1) A PERSON COMMITS A CREDIT CARD OFFENSE UNDER THIS SECTION
5 WHEN THE PERSON COMMITS A CREDIT CARD OFFENSE, AS DEFINED UNDER § 145 OF
6 THIS SUBHEADING, WHERE THE VALUE OF THE MONEY, GOODS, SERVICES, OR
7 OTHER THINGS OF VALUE IS LESS THAN \$100.

8 (2) IT IS NOT A DEFENSE THAT THE VALUE OF THE MONEY, GOODS,
9 SERVICES, OR OTHER THINGS IS \$100 OR MORE.

10 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
11 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR
12 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

13 (C) (1) AN OFFENSE UNDER THIS SECTION MAY BE TRIED IN THE DISTRICT
14 COURT ON A STATEMENT OF CHARGES, CITATION, OR CRIMINAL INFORMATION
15 FILED IN THE DISTRICT COURT.

16 (2) AN OFFENSE UNDER THIS SECTION MAY NOT BE TRIED IN THE
17 CIRCUIT COURT UNLESS:

18 (I) AN APPEAL IS TAKEN FROM A CONVICTION IN THE DISTRICT
19 COURT; OR

20 (II) THERE IS ANOTHER CHARGE ARISING OUT OF THE SAME
21 CIRCUMSTANCES WHICH ENTITLES THE DEFENDANT TO A TRIAL IN THE CIRCUIT
22 COURT.

23 (D) UNLESS A CREDIT CARD OFFENSE UNDER THIS SECTION IS SPECIFICALLY
24 CHARGED, A CREDIT CARD OFFENSE UNDER THIS SECTION MAY NOT BE TREATED
25 AS A LESSER INCLUDED OFFENSE OF ANY GREATER OFFENSE DEFINED IN THIS
26 ARTICLE OR AT COMMON LAW.

27 342B.

28 (A) (1) A PERSON COMMITS A THEFT UNDER THIS SECTION WHEN THE
29 PERSON COMMITS A THEFT, AS DEFINED UNDER § 342 OF THIS SUBHEADING, WHERE
30 THE SUBJECT OF THE THEFT HAS A VALUE OF LESS THAN \$100.

31 (2) IT IS NOT A DEFENSE THAT THE VALUE OF THE SUBJECT OF THE
32 THEFT IS \$100 OR MORE.

33 (B) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A MISDEMEANOR
34 AND ON CONVICTION IS SUBJECT TO A FINE OF NOT MORE THAN \$500 OR
35 IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR BOTH.

36 (C) (1) AN OFFENSE UNDER THIS SECTION MAY BE TRIED IN THE DISTRICT
37 COURT ON A STATEMENT OF CHARGES, CITATION, OR CRIMINAL INFORMATION
38 FILED IN THE DISTRICT COURT.

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1 (2) AN OFFENSE UNDER THIS SECTION MAY NOT BE TRIED IN THE
2 CIRCUIT COURT UNLESS:

3 (I) AN APPEAL IS TAKEN FROM A CONVICTION IN THE DISTRICT
4 COURT; OR

5 (II) THERE IS ANOTHER CHARGE ARISING OUT OF THE SAME
6 CIRCUMSTANCES WHICH ENTITLES THE DEFENDANT TO A TRIAL IN THE CIRCUIT
7 COURT.

8 (D) UNLESS THEFT UNDER THIS SECTION IS SPECIFICALLY CHARGED, A
9 THEFT UNDER THIS SECTION MAY NOT BE TREATED AS A LESSER INCLUDED
10 OFFENSE OF ANY GREATER OFFENSE DEFINED IN THIS ARTICLE OR AT COMMON
11 LAW.

12 344.

13 (a) In any indictment, information, warrant, or other charging document for theft
14 UNDER § 342 OF THIS SUBHEADING, not including taking a motor vehicle as defined in §
15 342A of this subheading, it is sufficient to use a formula substantially to the following
16 effect: "That A-B on the day of,, in the County (City) aforesaid, did
17 steal (here specifying the property or services stolen) of C-D, having a value of (less than
18 \$300 or \$300 or greater) in violation of Article 27, § 342, of the Annotated Code of
19 Maryland; contrary to the form of the Act of Assembly in such case made and provided
20 and against the peace, government, and dignity of the State."

21 (B) IN ANY STATEMENT OF CHARGES, CITATION, OR CRIMINAL
22 INFORMATION FILED IN THE DISTRICT COURT FOR THEFT UNDER § 342B OF THIS
23 SUBHEADING, NOT INCLUDING TAKING A MOTOR VEHICLE AS DEFINED IN § 342A OF
24 THIS SUBHEADING, IT IS SUFFICIENT TO USE A FORMULA SUBSTANTIALLY TO THE
25 FOLLOWING EFFECT: "THAT A-B ON THE DAY OF,, IN THE COUNTY
26 (CITY) AFORESAID, DID STEAL (HERE SPECIFYING THE PROPERTY OR SERVICES
27 STOLEN) OF C-D, HAVING A VALUE OF LESS THAN \$100 IN VIOLATION OF ARTICLE 27,
28 § 342B, OF THE ANNOTATED CODE OF MARYLAND; CONTRARY TO THE FORM OF THE
29 ACT OF ASSEMBLY IN SUCH CASE MADE AND PROVIDED AND AGAINST THE PEACE,
30 GOVERNMENT, AND DIGNITY OF THE STATE."

31 [(b)] (C) In any indictment, information, warrant, or other charging document for
32 taking a motor vehicle it is sufficient to use a formula substantially to the following effect:
33 "That A-B on the day of,, in the County (City) aforesaid, did
34 knowingly and willfully take out of C-D's lawful custody, control, or use a motor vehicle,
35 without the consent of C-D, in violation of Article 27, § 342A of the Annotated Code of
36 Maryland; contrary to the form of the Act of Assembly in such case made and provided
37 and against the peace, government, and dignity of the State."

38 [(c)] (D) The obtaining of property or services by a bad check as defined in §§ 140
39 to 144 shall not be prosecuted as theft as defined in this subheading unless the defendant
40 commits deception as provided in § 342 of this subheading in addition to any false
41 representation or false representations that there are sufficient funds in the drawee bank
42 to cover the check. In any prosecution for theft, the presumptions defined in § 142 shall
43 apply to the same extent as if the prosecution were under § 342 of this subheading.

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1 [(d)] (E) In any case in the circuit court in which this general form of indictment
2 or information is used to charge an offense under this subheading, the defendant on
3 timely demand is entitled to a bill of particulars.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1996.