

**Department of Legislative Services**  
Maryland General Assembly  
2002 Session

**FISCAL NOTE**  
**Revised**

Senate Bill 436 (Senators Jimeno and Baker)  
Judicial Proceedings

Judiciary

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**Criminal Law - Theft - Subsequent Offenders - Penalties**

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This bill increases the penalties for misdemeanor theft for persons with two or more prior theft convictions. For a person who is convicted of theft of property or services with a value of less than \$500, the penalty is increased from a maximum term of 18 months in prison or a fine of up to \$500 or both, to a maximum term of 5 years in prison or a fine of up to \$5,000 or both. The convicted person must also restore or pay for the value of the property or services. The bill also provides that a court may not impose these penalties unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that: (1) the State will seek the penalties under these provisions; and (2) lists the alleged prior convictions.

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**Fiscal Summary**

**State Effect:** Potential minimal increase in general fund revenues and expenditures due to the bill's penalty provisions.

**Local Effect:** Potential minimal increase in revenues and expenditures due to the bill's penalty provisions.

**Small Business Effect:** None.

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**Analysis**

**Current Law:** Persons convicted of theft where the property or services that were the subject of the theft has a value of less than \$500 are guilty of a misdemeanor and must

restore or pay for the value of the property or services, and are subject to maximum penalties of a fine of \$500 and/or imprisonment for 18 months. There are no penalty enhancements for subsequent offenses.

**State Revenues:** General fund revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the District Court.

**State Expenditures:** In fiscal 2001, the Division of Correction (DOC) had an intake of over 1,800 persons for theft-related offenses, some of which involved property or services valued under \$500. These defendants are expected to serve an average sentence of about 18 months. However, there is no data as to how many of these intakes involved repeat offenders.

In any case, general fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to DOC facilities for longer periods of time. The number of people who would be convicted under the bill's penalty enhancement for repeat theft offenders is unknown.

Generally, persons serving a sentence longer than one year are incarcerated in DOC facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$1,850 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new DOC inmate (including medical care and variable costs) is \$300 per month.

**Local Revenues:** Revenues could increase minimally as a result of the bill's monetary penalty provision from cases heard in the circuit courts.

**Local Expenditures:** Expenditures could decrease minimally as a result of the bill's enhanced incarceration penalty for repeat theft offenders. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days. Per diem operating costs of local detention facilities are expected to range from \$20 to \$84 per inmate in fiscal 2003.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 266, was introduced in 2001. That bill passed the Senate, received a hearing before the House Judiciary Committee, and had no further action taken on it.

**Cross File:** HB 691 (Delegate Cole, *et al.*) – Judiciary.

**Information Source(s):** State's Attorneys' Association, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2002  
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