
By: **Senator McFadden (By Request - Baltimore City Administration)**

Introduced and read first time: February 5, 2004

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Value of Property or Services in Theft and Related Crimes -**
3 **Increase in Threshold**

4 FOR the purpose of altering the threshold value of certain property or services for the
5 purpose of imposing certain penalties for extortion, malicious destruction of
6 property, theft, obtaining property or services by bad check, obtaining property
7 by counterfeiting, theft, or misrepresentation, fraud, receiving property by
8 stolen, counterfeit, or misrepresented credit card, identity fraud, Medicaid
9 fraud, and exploitation of vulnerable adults; altering provisions relating to
10 certain charging documents for certain crimes; altering provisions relating to a
11 certain notice of dishonor; altering a certain definition; providing for the
12 application of this Act; and generally relating to crimes for which the penalty
13 depends on the value of property or services involved.

14 BY repealing and reenacting, with amendments,
15 Article - Criminal Law
16 Section 3-404, 3-701(c) and (d), 3-702, 6-301, 7-103(e), 7-104(g) and (i),
17 7-108(a), 8-106, 8-206, 8-207, 8-209, 8-301(d), 8-516(c), and 8-801(c)
18 Annotated Code of Maryland
19 (2002 Volume and 2003 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Criminal Law
22 Section 3-701(b), 8-301(b) and (c), and 8-801(b)
23 Annotated Code of Maryland
24 (2002 Volume and 2003 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article - Commercial Law
27 Section 15-803(a)
28 Annotated Code of Maryland
29 (2000 Replacement Volume and 2003 Supplement)

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

3 **Article - Criminal Law**

4 3-404.

5 (a) An indictment, information, warrant, or other charging document for
6 robbery is sufficient if it substantially states:

7 "(name of defendant) on (date) in (county) did feloniously rob (name of victim) of
8 (property/service) (having a value of [\$500] \$1,000 or more) (with a dangerous
9 weapon) in violation of (section violated) against the peace, government, and dignity
10 of the State."

11 (b) If a charging document alleges that the value of the property or service
12 subject to this subtitle is [\$500] \$1,000 or more, the court shall instruct the jury to
13 determine whether the value of the property or service is less than [\$500] \$1,000, or
14 [\$500] \$1,000 or more.

15 (c) Unless a charging document alleges that the value of the property or
16 service subject to this subtitle is [\$500] \$1,000 or more, a felony violation of § 7-104 of
17 this article is not a lesser included crime of robbery.

18 3-701.

19 (b) A person may not obtain or attempt to obtain money, property, or anything
20 of value from another person with the person's consent, if the consent is induced by
21 wrongful use of actual or threatened force or violence, or by wrongful threat of
22 economic injury.

23 (c) If the value of the property is [\$500] \$1,000 or more, a person who violates
24 this section is guilty of the felony of extortion and on conviction is subject to
25 imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both.

26 (d) If the value of the property is less than [\$500] \$1,000, a person who
27 violates this section is guilty of the misdemeanor of extortion and on conviction is
28 subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or
29 both.

30 3-702.

31 (a) An officer or employee of the State or of a county, municipal corporation,
32 bicounty agency, or multicounty agency may not wrongfully obtain or attempt to
33 obtain money, property, or anything of value from a person with the person's consent,
34 if the consent is obtained under color or pretense of office, under color of official right,
35 or by wrongful use of actual or threatened force or violence.

36 (b) If the value of the property is [\$500] \$1,000 or more, a person who violates
37 this section:

1 (1) is guilty of the felony of extortion and on conviction is subject to
2 imprisonment not exceeding 10 years or a fine not exceeding \$5,000 or both; and

3 (2) notwithstanding any pardon, shall be barred permanently from
4 employment by the State or by a county, municipal corporation, bicounty agency, or
5 multicounty agency.

6 (c) If the value of the property is less than [\$500] \$1,000, a person who
7 violates this section is guilty of the misdemeanor of extortion and on conviction is
8 subject to imprisonment not exceeding 6 months or a fine not exceeding \$500 or both.

9 (d) A prosecution for a felony under this section shall be instituted within 5
10 years after the crime was committed.

11 6-301.

12 (a) A person may not willfully and maliciously destroy, injure, or deface the
13 real or personal property of another.

14 (b) A person who, in violation of this section, causes damage of at least [\$500]
15 \$1,000 to the property is guilty of a misdemeanor and on conviction is subject to
16 imprisonment not exceeding 3 years or a fine not exceeding \$2,500 or both.

17 (c) A person who, in violation of this section, causes damage of less than
18 [\$500] \$1,000 to the property is guilty of a misdemeanor and on conviction is subject
19 to imprisonment not exceeding 60 days or a fine not exceeding \$500 or both.

20 (d) (1) For purposes of this subsection, an act of "graffiti" means a
21 permanent drawing, permanent painting, or a permanent mark or inscription on the
22 property of another without the permission of the owner of the property.

23 (2) In addition to the penalties set forth in subsections (b) and (c) of this
24 section, the court shall order a person convicted of causing malicious destruction by
25 an act of graffiti to pay restitution or perform community service or both.

26 (3) Title 11, Subtitle 6 of the Criminal Procedure Article applies to an
27 order of restitution under this subsection.

28 (e) (1) Except as provided in paragraph (2) of this subsection, to determine a
29 penalty, the court may consider as one crime the aggregate value of damage to each
30 property resulting from one scheme or continuing course of conduct.

31 (2) If separate acts resulting in damage to the properties of one or more
32 owners are set forth by separate counts in one or more charging documents, the
33 separate counts may not be merged for sentencing.

34 (f) (1) The value of damage is not a substantive element of a crime under
35 this section and need not be stated in the charging document.

1 (2) The value of damage shall be based on the evidence and that value
2 shall be applied for the purpose of imposing the penalties established in this section.

3 (3) If it cannot be determined from the evidence whether the value of the
4 damage to the property is more or less than [500] \$1,000, the value is deemed to be
5 less than [500] \$1,000.

6 7-103.

7 (e) When it cannot be determined whether the value of the property or service
8 is more or less than [500] \$1,000 under the standards of this section, the value is
9 deemed to be less than [500] \$1,000.

10 7-104.

11 (g) (1) A person convicted of theft of property or services with a value of
12 [500] \$1,000 or more is guilty of a felony and:

13 (i) is subject to imprisonment not exceeding 15 years or a fine not
14 exceeding \$25,000 or both; and

15 (ii) shall restore the property taken to the owner or pay the owner
16 the value of the property or services.

17 (2) Except as provided in paragraph (3) of this subsection, a person
18 convicted of theft of property or services with a value of less than [500] \$1,000, is
19 guilty of a misdemeanor and:

20 (i) is subject to imprisonment not exceeding 18 months or a fine
21 not exceeding \$500 or both; and

22 (ii) shall restore the property taken to the owner or pay the owner
23 the value of the property or services.

24 (3) Subject to paragraph (4) of this subsection, a person who has two or
25 more prior convictions under this subtitle and who is convicted of theft of property or
26 services with a value of less than [500] \$1,000 is guilty of a misdemeanor and:

27 (i) is subject to imprisonment not exceeding 5 years or a fine not
28 exceeding \$5,000 or both; and

29 (ii) shall restore the property taken to the owner or pay the owner
30 the value of the property or services.

31 (4) The court may not impose the penalties under paragraph (3) of this
32 subsection unless the State's Attorney serves notice on the defendant or the
33 defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at
34 least 15 days before trial that:

35 (i) the State will seek the penalties under paragraph (3) of this
36 subsection; and

1 (ii) lists the alleged prior convictions.

2 (i) An action or prosecution for theft of property or services with a value of
3 less than [\$500] \$1,000 shall be commenced within 2 years after the commission of
4 the crime.

5 7-108.

6 (a) An indictment, information, warrant, or other charging document for theft
7 under this part, other than for taking a motor vehicle under § 7-105 of this part, is
8 sufficient if it substantially states:

9 "(name of defendant) on (date) in (county) stole (property or services stolen) of
10 (name of victim), having a value of (less than [\$500] \$1,000, or [\$500] \$1,000 or more)
11 in violation of § 7-104 of the Criminal Law Article, against the peace, government,
12 and dignity of the State."

13 8-106.

14 (a) A person who obtains property or services with a value of [\$500] \$1,000 or
15 more by issuing or passing a check in violation of § 8-103 of this subtitle is guilty of
16 a felony and on conviction is subject to imprisonment not exceeding 15 years or a fine
17 not exceeding \$1,000 or both.

18 (b) A person who obtains property or services by issuing or passing more than
19 one check in violation of § 8-103 of this subtitle is guilty of a felony and on conviction
20 is subject to imprisonment not exceeding 15 years or a fine not exceeding \$1,000 or
21 both if:

22 (1) each check that is issued is for less than [\$500] \$1,000 and is issued
23 to the same person within a 30-day period; and

24 (2) the cumulative value of the property or services is [\$500] \$1,000 or
25 more.

26 (c) A person who obtains property or services with a value of less than [\$500]
27 \$1,000 by issuing or passing a check in violation of § 8-103 of this subtitle is guilty of
28 a misdemeanor and on conviction is subject to imprisonment not exceeding 18 months
29 or a fine not exceeding \$100 or both.

30 8-206.

31 (a) A person may not for the purpose of obtaining money, goods, services, or
32 anything of value, and with the intent to defraud another, use:

33 (1) a credit card obtained or retained in violation of § 8-204 or § 8-205 of
34 this subtitle; or

35 (2) a credit card that the person knows is counterfeit.

1 (b) A person may not, with the intent to defraud another, obtain money, goods,
2 services, or anything of value by representing:

3 (1) without the consent of the cardholder, that the person is the holder of
4 a specified credit card; or

5 (2) that the person is the holder of a credit card when the credit card had
6 not been issued.

7 (c) (1) If the value of all money, goods, services, and other things of value
8 obtained in violation of this section exceeds [\$500] \$1,000, a person who violates this
9 section is guilty of a felony and on conviction is subject to imprisonment not exceeding
10 15 years or a fine not exceeding \$1,000 or both.

11 (2) If the value of all money, goods, services, and other things of value
12 obtained in violation of this section does not exceed [\$500] \$1,000, a person who
13 violates this section is guilty of a misdemeanor and on conviction is subject to
14 imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

15 8-207.

16 (a) If a person is authorized by an issuer to furnish money, goods, services, or
17 anything of value on presentation of a credit card by the cardholder, the person or an
18 agent or employee of the person may not, with the intent to defraud the issuer or
19 cardholder:

20 (1) furnish money, goods, services, or anything of value on presentation
21 of:

22 (i) a credit card obtained or retained in violation of § 8-204 or §
23 8-205 of this subtitle; or

24 (ii) a credit card that the person knows is counterfeit; or

25 (2) fail to furnish money, goods, services, or anything of value that the
26 person represents in writing to the issuer that the person has furnished.

27 (b) (1) If the value of all money, goods, services, and other things of value
28 furnished or not furnished in violation of this section exceeds [\$500] \$1,000, a person
29 who violates this section is guilty of a felony and on conviction is subject to
30 imprisonment not exceeding 15 years or a fine not exceeding \$1,000 or both.

31 (2) If the value of all money, goods, services, and other things of value
32 furnished or not furnished in violation of this section does not exceed [\$500] \$1,000, a
33 person who violates this section is guilty of a misdemeanor and on conviction is
34 subject to imprisonment not exceeding 18 months or a fine not exceeding \$500 or
35 both.

1 8-209.

2 (a) A person may not receive money, goods, services, or anything of value if the
3 person knows or believes that the money, goods, services, or other thing of value was
4 obtained in violation of § 8-206 of this subtitle.

5 (b) (1) If the value of all money, goods, services, and other things of value
6 obtained in violation of this section exceeds [\$500] \$1,000, a person who violates this
7 section is guilty of a felony and on conviction is subject to imprisonment not exceeding
8 15 years or a fine not exceeding \$1,000 or both.

9 (2) If the value of all money, goods, services, and other things of value
10 obtained in violation of this section does not exceed [\$500] \$1,000, a person who
11 violates this section is guilty of a misdemeanor and on conviction is subject to
12 imprisonment not exceeding 18 months or a fine not exceeding \$500 or both.

13 8-301.

14 (b) A person may not knowingly, willfully, and with fraudulent intent possess,
15 obtain, or help another to possess or obtain any personal identifying information of an
16 individual, without the consent of the individual, in order to use, sell, or transfer the
17 information to get a benefit, credit, good, service, or other thing of value in the name
18 of the individual.

19 (c) A person may not knowingly and willfully assume the identity of another:

20 (1) to avoid identification, apprehension, or prosecution for a crime; or

21 (2) with fraudulent intent to:

22 (i) get a benefit, credit, good, service, or other thing of value; or

23 (ii) avoid the payment of debt or other legal obligation.

24 (d) (1) A person who violates this section where the benefit, credit, goods,
25 services, or other thing of value that is the subject of subsection (b) or (c) of this
26 section has a value of [\$500] \$1,000 or greater is guilty of a felony and on conviction
27 is subject to imprisonment not exceeding 5 years or a fine not exceeding \$25,000 or
28 both.

29 (2) A person who violates this section where the benefit, credit, goods,
30 services, or other thing of value that is the subject of subsection (b) or (c) of this
31 section has a value of less than [\$500] \$1,000 is guilty of a misdemeanor and on
32 conviction is subject to imprisonment not exceeding 18 months or a fine not exceeding
33 \$5,000 or both.

34 (3) A person who violates this section under circumstances that
35 reasonably indicate that the person's intent was to manufacture, distribute, or
36 dispense another individual's personal identifying information without that

1 individual's consent is guilty of a felony and on conviction is subject to imprisonment
2 not exceeding 5 years or a fine not exceeding \$25,000 or both.

3 (4) A person who violates subsection (c)(1) of this section is guilty of a
4 misdemeanor and on conviction is subject to imprisonment not exceeding 18 months
5 or a fine not exceeding \$5,000 or both.

6 (5) When the violation of this section is pursuant to one scheme or
7 continuing course of conduct, whether from the same or several sources, the conduct
8 may be considered as one violation and the value of the benefit, credit, goods, services,
9 or other thing of value may be aggregated in determining whether the violation is a
10 felony or misdemeanor.

11 8-516.

12 (c) If the value of the money, health care services, or other goods or services
13 involved is [\$500] \$1,000 or more in the aggregate, a person who violates a provision
14 of this part is guilty of a felony and on conviction is subject to imprisonment not
15 exceeding 5 years or a fine not exceeding \$100,000 or both.

16 8-801.

17 (b) A person may not knowingly and willfully obtain by deception,
18 intimidation, or undue influence the property of an individual that the person knows
19 or reasonably should know is a vulnerable adult with intent to deprive the vulnerable
20 adult of the vulnerable adult's property.

21 (c) (1) A person convicted of a violation of this section when the value of the
22 property is [\$500] \$1,000 or more is guilty of a felony and:

23 (i) is subject to imprisonment not exceeding 15 years or a fine not
24 exceeding \$10,000 or both; and

25 (ii) shall restore the property taken or its value to the owner, or, if
26 the owner is deceased, restore the property or its value to the owner's estate.

27 (2) A person convicted of a violation of this section when the value of the
28 property is less than [\$500] \$1,000 is guilty of a misdemeanor and:

29 (i) is subject to imprisonment not exceeding 18 months or a fine
30 not exceeding \$500 or both; and

31 (ii) shall restore the property taken or its value to the owner, or, if
32 the owner is deceased, restore the property or its value to the owner's estate.

Article - Commercial Law

15-803.

(a) A notice of dishonor sent by a holder to a maker or drawer under § 15-802 of this subtitle shall substantially comply with the following form:

"NOTICE OF DISHONORED CHECK

Date _____

Name of Issuer _____

Street Address _____

City and State _____

You are according to law hereby notified that a check or instrument numbered _____ and dated _____, drawn on the _____ bank of _____ in the amount of _____ has been returned unpaid with the notation the payment has been refused because of _____. Within 30 days from the mailing of this notice, you must pay or tender to _____

\tab (Holder)

sufficient money to pay such check or instrument in full and a collection fee of \$ _____ (not more than \$35). If payment of the above amounts is not made within 30 days of the mailing of this notice of dishonor, you shall be liable under § 15-802 of the Commercial Law Article, in addition to the amount of the check or instrument and a collection fee of up to \$35, for an amount up to 2 times the amount of the check or instrument, but not more than \$1,000. In addition, you may be prosecuted under Title 8, Subtitle 1 of the Criminal Law Article of Maryland and subject to the following penalties:

(1) If the property or services has a value of [\$500] \$1,000 or more, a fine not exceeding \$1,000 or imprisonment not exceeding 15 years, or both;

(2) If the property or services has a value of less than [\$500] \$1,000, a fine not exceeding \$100 or imprisonment not exceeding 18 months, or both.

It shall be a complete defense to any action brought by any holder under § 15-802 of the Commercial Law Article that, within 30 days from the mailing of the "Notice of Dishonored Check", the maker or drawer has paid the holder the full amount of the check or instrument and collection costs of not more than \$35. A holder may not recover any damages if the holder has demanded of, and received from, the maker or drawer collection costs exceeding \$35.

It shall be a complete defense to any action brought under § 15-802 of the Commercial Law Article by a holder to whom a dishonored check or other instrument was issued that the dishonor of the check or other instrument was due to a justifiable stop payment order or to the attachment of the account.

1 In any action brought under § 15-802 of the Commercial Law Article by a holder or
2 holder in due course to whom a dishonored check or other instrument was negotiated,
3 the action is subject to all valid defenses that may be raised by the maker or drawer
4 against the holder or holder in due course under Title 3 of the Commercial Law
5 Article."

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply only prospectively to crimes committed on or after the effective
8 date of this Act and may not be applied or interpreted to have any effect on or
9 application to any crimes committed before the effective date of this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
11 effect October 1, 2004.