

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE
Revised

House Bill 194 (Delegate Lee, *et al.*)
Judiciary

Judicial Proceedings

Crimes - Theft - Use of Interactive Computer Service

This bill provides that a person who commits theft by use of an interactive computer service may be prosecuted, indicted, tried, and convicted in any county where the victim resides or the electronic communication originated or terminated. "Interactive computer service" is defined as an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including a service or system that provides access to the Internet.

Fiscal Summary

State Effect: The State Police and District Court could handle the bill's requirements using existing budgeted resources.

Local Effect: Law enforcement agencies and the circuit courts could handle the bill's requirements using existing budgeted resources.

Small Business Effect: None.

Analysis

Current Law: A person may not obtain control over property by willfully or knowingly using deception, if the person: (1) intends to deprive the owner of the property; (2) willfully or knowingly uses, conceals, or abandons the property in a manner that deprives, or will deprive, the owner of the property. If the value of the things taken exceeds \$500, the violation is a felony with a penalty of up to 15 years imprisonment, a maximum fine of \$25,000, or both. If the value of the things taken does not exceed \$500,

the violation is a misdemeanor with a penalty of up to 18 months imprisonment, a maximum fine of \$500, or both. Upon conviction of a third misdemeanor, a violator is subject to a penalty of up to five years imprisonment, a maximum fine of \$500, or both, if the State's Attorney serves proper notice on the defendant or the defendant's counsel. In addition to any fine or incarceration, a violator must restore the property taken or pay the owner the value of the property or services.

Background: In *State v. Cain*, 360 Md. 205 (2000), the Court of Appeals held that Maryland courts may assert territorial jurisdiction in a case of theft by deception involving an Internet auction seller located outside the State. In *Cain*, the defendant delivered collectable dolls that did not conform to the buyer's expectations. The *Cain* court held that the defendant obtained control of the property through the agency of the U.S. Postal Service when the victim deposited the check in the mail. The court stated that the State may prove the necessary jurisdictional fact if it proves that the check was posted in Maryland.

Additional Information

Prior Introductions: None.

Cross File: None. However, another bill, HB 67, has identical provisions. HB 67 is referred to the Judiciary Committee.

Information Source(s): Department of Public Safety and Correctional Services, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - January 21, 2004
ncs/jr Revised - House Third Reader - March 24, 2004
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