

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 1344
Judiciary

(Delegate Frush)

Motor Vehicle Theft - Penalties

This bill alters provisions applicable to the felony of taking a motor vehicle by: (1) providing that the vehicle must have a value of at least \$500; (2) increases penalties from maximum penalties of imprisonment for five years and/or a fine of \$5,000 to, for a first offense, maximum penalties of imprisonment for 15 years and/or a fine of \$25,000; for a second offense, imprisonment for a minimum of six months and the same maximum penalties; and for a third or subsequent offense, imprisonment for a minimum of one year and the same maximum penalties.

A court may not impose the allowable penalties for a second or subsequent offense unless the State's Attorney serves notice to the defendant before the acceptance of a plea of guilty or *nolo contendere* or at least 15 days before trial that: (1) the State will seek such a penalty; and (2) lists the relevant offenses for which the defendant is alleged to have been previously convicted.

The bill also removes this offense from the original exclusive jurisdiction of the District Court.

Fiscal Summary

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

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

Small Business Effect: None.

Analysis

Current Law: Under the State's prohibition against motor vehicle theft, a person may not knowingly and willingly take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent. A violator is guilty of the felony of taking a motor vehicle and subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. The convicted person must restore the motor vehicle or, if unable to, pay the owner its full value. These provisions do not preclude prosecution for general theft. If a person is convicted of motor vehicle theft and general theft for the same act or transaction, the motor vehicle theft conviction must merge for sentencing purposes with the conviction for theft.

A person convicted of theft of property or services with a value of \$500 or more is guilty of a felony and subject to maximum penalties of imprisonment for 15 years and/or a fine of \$25,000. A person convicted of theft of property or services with a value of less than \$500, is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500. Regardless of value, the convicted person must restore the owner's property or pay the owner for the value of the property or services.

Under the State's prohibition against the unauthorized removal of property, without the permission of the owner, a person may not enter or be on the premises of another, and take and carry away from the premises or out of the custody or use of the other, or the other's agent, or a governmental unit any property, including: (1) a vehicle; (2) a motor vehicle; (3) a vessel; or (4) livestock. A violator is guilty of a misdemeanor and subject to penalties of imprisonment for at least six months and not more than four years and/or a fine of at least \$50 and not more than \$100. The convicted person must restore the property taken and carried away or, if unable to, must pay the owner its full value. It is not a defense that the person intends to hold or keep the property for the person's present use and not with the intent of appropriating or converting the property.

State Revenues: General fund revenues could increase minimally as a result of the bill's changes to monetary penalty provisions for motor vehicle theft from cases heard in the District Court.

State Expenditures: General fund expenditures could increase minimally as a result of the bill's changes to the incarceration penalties for motor vehicle theft, including mandatory minimum sentencing, due to more people being committed to Division of Correction (DOC) facilities for longer periods of time and increased payments to counties for reimbursement of inmate costs. Due to the bill's inclusion of a qualifying vehicle value of \$500 for the crime to have occurred, the number of people convicted of this crime may actually decrease minimally, but not enough to offset the increased incarceration costs.

Persons serving a sentence longer than 18 months 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 \$350 per month. Excluding medical care, the average variable costs total \$120 per month.

Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or DOC. The State reimburses counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. State per diem reimbursements for fiscal 2005 are estimated to range from \$14 to \$58 per inmate depending upon the jurisdiction. Persons sentenced to such a term in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

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

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalties. 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 \$29 to \$97 per inmate in fiscal 2005.

Additional Information

Prior Introductions: None.

Cross File: SB 588 (Senator Green) – Judicial Proceedings.

Information Source(s): Maryland Department of Transportation (Motor Vehicle Administration), Department of Public Safety and Correctional Services (Division of Correction, Division of Parole and Probation), Department of Legislative Services

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