

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1601
Judiciary

(Delegate Kohl, *et al.*)

**Crimes - Entering or Being Transported by Motor Vehicle Without Owner
Consent - Penalties**

This bill prohibits a person from being willfully transported by or entering into a motor vehicle that the person knows or has reason to know is out of the lawful custody or control of the “owner,” or is being used without the owner’s consent. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for two years and/or a fine of \$2,500.

These provisions do not preclude prosecution for general theft involving a motor vehicle or motor vehicle theft. If a person is convicted of general theft or motor vehicle theft and of the provisions of this bill for the same act or transaction, the conviction under the provisions of this bill must merge for sentencing purposes into the conviction for general theft or motor vehicle theft.

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: An individual may not take unauthorized possession or control of a motor vehicle from another individual who actually possesses the motor vehicle, by force or violence, or by putting that individual in fear through intimidation or threat of force or violence. A violation of this provision is carjacking. A person who employs or displays a dangerous weapon during the commission of a carjacking is guilty of armed carjacking. A violator is guilty of a felony and subject to imprisonment for up to 30 years.

A sentence imposed under this provision may be separate from and consecutive to a sentence for any other crime that arises from the conduct underlying the carjacking or armed carjacking. It is not a defense that the defendant did not intend to permanently deprive the owner or possessor of the motor vehicle.

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 a felony 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.

Under the antitheft provisions of the Transportation Article, a person may not knowingly and willfully take a motor vehicle out of the owner's lawful custody, control, or use without the owner's consent, even if the intent is not theft. A person who violates this section 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. In addition, the convicted person must restore the owner's property or pay the owner for the value of the property. This provision does not preclude prosecution for theft of a motor vehicle.

No person may possess a motor vehicle master key adapted for or capable of being used to open or operate any motor vehicle in this State, except a person in lawful pursuit of a legitimate business interest or a law enforcement officer in pursuit of his duties. A violator is guilty of a misdemeanor and subject to maximum penalties of imprisonment for one year and/or a fine of \$500.

A person convicted of general 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.

Convictions for a motor vehicle theft and general theft of a motor vehicle are merged for sentencing purposes if the convictions stem from the same act or transaction.

If a police officer receives reliable information that a vehicle has been stolen, the police officer must immediately report the theft to the Motor Vehicle Administration (MVA) and the Department of State Police (DSP), unless the police officer has received reliable information of the recovery of the vehicle. An alleged theft of a rental vehicle is a reportable theft of a vehicle for purposes of these provisions.

If a police officer receives reliable information that a vehicle which the officer previously reported stolen has been recovered, the officer must immediately report the recovery to the MVA and DSP.

If a vehicle titled or registered in the State has been stolen, the owner or secured party may notify the MVA of the theft. Every person who has given such notice must notify the MVA of a recovery of the vehicle.

The MVA is required to maintain and appropriately index cumulative public records of stolen vehicles reported to it and may suspend the registration of such a reported vehicle. Until the MVA learns of the recovery of the vehicle or that the report of its theft was erroneous, it may not issue a certificate of title for the vehicle.

Background: Vehicle theft in Maryland increased by 143% from 1984 to 1994. The Maryland General Assembly created the Vehicle Theft Prevention Council in 1994 as a statewide planning and dedicated funding resource. The council embraces a statewide strategy directed at public awareness, vehicle theft by juveniles, law enforcement and prosecution through a grant award process.

According to the State Police, since 1994, overall vehicle theft rates in Maryland have been reduced by over 36% for an estimated economic savings of \$70 million.

The fiscal 2006 budget allowance for the council was \$1.4 million. In December 2005, the Governor announced an increase of \$600,000 in vehicle theft prevention funding for fiscal 2006. The Governor's proposed fiscal 2007 budget includes \$2 million for the council.

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: General fund expenditures could increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities and increased payments to counties for reimbursement of inmate costs. The number of people convicted of this proposed crime is expected to be minimal.

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 \$1,974 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 \$341 per month. Excluding medical care, the average variable costs total \$134 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 2007 are estimated to range from \$17 to \$65 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 provision from cases heard in the circuit courts.

Local Expenditures: Expenditures could increase minimally as a result of the bill's incarceration penalty. 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 \$33 to \$119 per inmate in fiscal 2007.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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