

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

House Bill 1029
Judiciary

(Prince George's County Delegation)

Prince George's County - Additional Fine for Auto Theft Convictions - Auto
Theft and Vandalism Prevention Task Force
PG 309-06

This bill (1) requires a court in Prince George's County to impose an additional post-conviction fine on any person convicted of carjacking, armed carjacking, taking a motor vehicle, or theft of a motor vehicle with a value of \$500 or more; (2) requires a clerk of a court in Prince George's County to collect and deposit all such fines with the county's Office of Finance; (3) requires the Office of Finance to maintain the money in a special fund known as the Prince George's County Auto Theft and Vandalism Prevention Task Force Fund; and (4) specifies that the fund may only be used by the Prince George's County Auto Theft and Vandalism Prevention Task Force.

Fiscal Summary

State Effect: Any potential decrease in general fund revenue is not expected to be significant, as is any potential increase in costs for the District Court.

Local Effect: Potential annual increase in revenue to Prince George's County of \$5,000 to \$50,000. All such additional revenue is directed to the Auto Theft and Vandalism Prevention Task Force Fund.

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 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.

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: (1) 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 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 taking a motor vehicle 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 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.

The Washington Area Vehicle Enforcement (WAVE) Team consists of representatives of the Prince George's County Police, the Maryland State Police, the Washington Metropolitan Police, the Montgomery County Police, the Prince George's County Sheriff's Office, the Charles County Sheriff's Office, the U.S. Marshal's Service, and the University of Maryland Police. Officers from Prince George's County municipal police departments serve on the team on a rotating basis.

As of December 10, 2005, the WAVE Team has made 653 arrests, a 16% increase over the previous year. According to a December press release from the Governor, “[a]cting under multi-jurisdictional authority granted by the U.S. Marshal’s Service and commanded by a Prince George’s County Police Captain, WAVE Team members recovered 721 stolen vehicles, a 27 percent increase over last year. Those recovered vehicles are valued at more than \$9 million dollars. During arrests, officers recovered 29 firearms.”

According to Prince George’s County, vehicle theft increased more than 20% from 2000 to 2002 and, since 2003, the number of thefts has been relatively constant. However, overall crime in the county increased by less than 1% in 2004. In a statement issued by the county executive’s office in April 2005, “preliminary crime reports show that overall crime in Prince George’s in 2005 has declined and vehicle theft is down 16.6%.” The reduction in vehicle theft is believed by county officials to have resulted from the creation of a certain task earlier in the year.

The Prince George’s County Auto Theft and Vandalism Prevention Task Force was established by the county executive in January 2005 to reduce the incidence of motor vehicle theft and vandalism in the county. The task force works with a vehicle theft enforcement unit, which is a “partnership” involving the county police department, the U.S. Marshal’s Service, the Metropolitan (DC) Police Department, the Montgomery County Police Department, the Maryland State Police, and the Prince George’s County Sheriff’s Department. The Auto Theft and Vandalism Prevention Task Force Fund does not now exist.

In Prince George’s County in fiscal 2005, there were 26 criminal convictions for general theft and 980 criminal convictions for taking a motor vehicle in the District Court. It is not known how many of the general theft convictions involved the theft of a motor vehicle. The Judiciary’s Criminal Justice Information Records indicate that for fiscal 2005, there were 7 convictions for carjacking, 11 convictions for motor vehicle theft, and an unknown number of applicable convictions of the 154 total convictions for general theft in the circuit court for the county. It is not known how many sentences were merged.

It should be noted also that the bill’s provisions do not apply to juveniles, who commit many of the offenses targeted by the proposal.

It is estimated that this bill could result in a \$50 surcharge being assessed in approximately 1,000 convictions of the applicable offenses annually. The Administrative Office of the Courts (AOC) advises that, under the bill, collections of other fines and fees for such convictions that would otherwise go to the general fund, could decrease. That is

because, when additional fees or surcharges increase the total amount a defendant must pay, a judge may exercise the authority to set the allowable criminal fine for the offense in an amount that would offset the surcharge. As a result, AOC believes that this bill has the potential to decrease general funds by \$50,000. The amount of fine revenue currently collected for convictions of the specified offenses annually is not readily available.

The extent to which this would actually occur cannot be known without any actual experience under the bill. However, because AOC admits that collection rates for such fines are historically low, the Department of Legislative Services (DLS) advises it is doubtful that this bill would have any significant effect on general fund revenue.

The fines, costs, and fees collected by the District Court are tracked in our automated cash register system and distributed based on the category of the case, such as routine traffic, jailable traffic, criminal, civil, and local. The District Court advises that this legislation would require form changes and reprogramming changes to cash register programs in the District Court. Accordingly, the court would have to track the surcharge manually. If instead, the cash register program for this jurisdiction is changed, future-programming changes would be more expensive as the programming costs would now be for two different systems. DLS advises that all such changes could be accommodated with the existing budgeted resources of the Judiciary.

Local Fiscal Effect: This bill could result in a \$50 post-conviction surcharge for approximately 1,000 convictions in Prince George's County, annually. This represents a potential allocation of nearly \$50,000 to be distributed by the District Court to the county for the Auto Theft and Vandalism Prevention Task Force Fund. However, because actual collection rates for such post-conviction fees tend to be historically low, DLS advises that the actual annual distributions to the fund cannot be reliably predicted, and may range from \$5,000 to \$50,000.

Additional Comments: AOC advises that the Clerk of the Circuit Court for Prince George's County will not be able to deposit the costs collected directly with the county's Department of Finance, but instead will have to transmit the money to AOC, which would then send the costs to the county.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Prince George's County, Judiciary (District Court, Administrative Office of the Courts), Department of Legislative Services

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Analysis by: Guy G. Cherry

Direct Inquiries to:
(410) 946-5510
(301) 970-5510