

Department of Legislative Services
Maryland General Assembly
2009 Session

FISCAL AND POLICY NOTE
Revised

House Bill 66
Judiciary

(Delegate Anderson, *et al.*)

Judicial Proceedings

Criminal Law - Theft - Penalties

This bill increases the maximum property value for misdemeanor theft from \$500 to \$1,000. It also creates three tiers of felony theft:

- when the value of the item stolen is between \$1,000 and \$10,000, the maximum penalty is 10 years imprisonment and/or a \$10,000 fine;
- when the value of the item stolen is between \$10,000 and \$100,000, the maximum penalty is 15 years imprisonment and/or a \$15,000 fine; and
- when the value of the item stolen is \$100,000 or more, the maximum penalty is 25 years imprisonment and/or a \$25,000 fine.

The bill also makes conforming changes to provisions addressing charging documents.

Fiscal Summary

State Effect: Potential minimal increase in general fund revenues due to the bill's expanded scope applicable to misdemeanor theft provisions and increase in general fund expenditures due to the bill's changes to incarceration penalty provisions applicable to felony theft provisions.

Local Effect: Potential minimal decrease in local revenues due to the bill's changes to monetary penalty provisions applicable to felony theft provisions. Potential minimal increase in local expenditures due to the bill's expanded scope applicable to misdemeanor theft provisions.

Small Business Effect: None.

Analysis

Current Law: Under the general theft provisions, a person convicted of theft of property 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 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.

Chapter 130 of 2004 created a new petty theft sentencing category for existing theft, bad checks, and credit card offenses where the value of the goods, services, and other property involved in the offense is less than \$100. A violator is guilty of a misdemeanor and subject to maximum penalties of 90 days’ imprisonment and/or a \$500 fine.

Background: According to the most recent *Uniform Crime Report (2007)*, there were 127,307 reports of theft offenses statewide (referred to as larceny-theft) in 2007 (193 fewer than 2006). There were also 23,853 arrests statewide (an increase of 2% over 2006). The following table shows crime reports and arrests in 2006 and 2007 for related larceny-theft offenses in the counties with the greatest activity.

<u>Jurisdiction</u>	<u>Reports 2006</u>	<u>Reports 2007</u>	<u>Arrests 2006</u>	<u>Arrests 2007</u>
Anne Arundel County	12,217	13,295 (+9%)	3,254	3,448 (+6%)
Baltimore City	18,846	17,077 (-9%)	1,770	1,596 (-10%)
Baltimore County	18,357	18,607 (+1%)	4,618	4,663 (+1%)
Montgomery County	17,466	18,181 (+4%)	2,020	1,803 (-11%)
Prince George’s County	26,171	25,384 (-3%)	2,696	2,980 (+11%)

The number or percentage of these arrests that qualified for a misdemeanor or felony charge is not known. It is also not known how many of the arrests resulted in successful prosecutions leading to imprisonment terms and/or fines.

In fiscal 2008, the Division of Correction (DOC) had an intake for all theft convictions of 961 persons. The average sentence ranged from 1 year to 3.5 years. Of those intakes 527 were for what DOC classifies as felony-theft offenses

State Revenues: This bill increases the maximum property value for misdemeanor theft from \$500 to \$1,000 and, thereby, expands the scope of misdemeanor theft. As a result,

it is assumed that general fund revenues may increase minimally from an increased number of cases filed and heard in the District Court.

State Expenditures: Because most felony-theft prosecutions involve property or services valued between \$500 and \$10,000, general fund expenditures may decrease minimally as a result of the bill's reduction in the maximum incarceration penalty for the new first tier of felony theft due to people being committed to DOC facilities for shorter terms. The bill may also increase payments to counties for reimbursement of inmate costs due to the expanded scope of misdemeanor theft.

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 \$2,600 per month. Excluding overhead, the average cost of housing a new DOC inmate (including variable medical care and variable operating costs) is \$342 per month. Excluding all medical care, the average variable costs total \$164 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 2010 are estimated to range from \$23 to \$71 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 may decrease minimally as a result of the bill's changes to the monetary penalty provisions for felony theft from cases heard in the circuit courts. Since most felony theft prosecutions involve property or services valued between \$500 and \$10,000, and the bill sets the maximum monetary penalty for the new first tier of felony theft at \$10,000 rather than \$25,000, the overall impact on the circuit courts is likely to be a reduction in fine revenue from such offenses.

Local Expenditures: Expenditures may increase minimally as a result of the bill's expanded scope for misdemeanor theft and applicable incarceration penalty provisions. 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 \$46 to \$141 per inmate in fiscal 2010.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Commission on Criminal Sentencing Policy, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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