

Department of Legislative Services  
Maryland General Assembly  
2012 Session

FISCAL AND POLICY NOTE

House Bill 1113  
Judiciary

(Delegate Wilson, *et al.*)

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Public Safety - Possession of Stolen Regulated Firearms - Felony

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This bill establishes that a person who possesses, sells, transfers, or otherwise disposes of a stolen firearm when the person has knowledge or reasonable cause to believe that the regulated firearm has been stolen is guilty of a felony. Violators are subject to imprisonment for up to 10 years and/or a maximum fine of \$10,000.

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Fiscal Summary

**State Effect:** Minimal increase in general fund expenditures if individuals serve lengthier sentences as a result of the bill. Revenues are not affected.

**Local Effect:** Minimal decrease in local expenditures if individuals are sentenced to serve their incarcerations at Division of Correction facilities as a result of the bill. Revenues are not affected.

**Small Business Effect:** None.

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Analysis

**Current Law:** A person may not possess, sell, transfer, or otherwise dispose of a stolen regulated firearm if the person knows or has reasonable cause to believe that the regulated firearm has been stolen. Violators who knowingly participate in such an act or transaction are guilty of a misdemeanor and subject to imprisonment for up to five years and/or a maximum fine of \$10,000. Each violation is considered a separate crime.

Under the general theft statute, a person may not possess stolen personal property knowing that it has been stolen, or believing that it probably has been stolen, 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 the owner of the property; or (3) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property. In the case of a person in the business of buying or selling goods, the knowledge may be inferred if (1) the person possesses or exerts control over property stolen from more than one person on separate occasions; (2) during the year preceding the criminal possession charged, the person has acquired stolen property in a separate transaction; or (3) being in the business of buying or selling property of the sort possessed, the person acquired it for a consideration that the person knew was far below a reasonable value.

In a prosecution for theft by possession of stolen property, it is not a defense that (1) the person who stole the property has not been convicted, apprehended, or identified; (2) the defendant stole or participated in the stealing of the property; (3) the property was provided by law enforcement as part of an investigation, if the property was described to the defendant as being obtained through the commission of theft; or (4) the stealing of the property did not occur in the State.

A person convicted of theft of property or services valued at less than \$100 is guilty of a misdemeanor and is subject to maximum penalties of imprisonment of 90 days and/or a \$500 fine. A person convicted of theft of property with a value of less than \$1,000 is guilty of a misdemeanor and subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500.

Chapter 655 of 2009 increased the maximum property value for misdemeanor theft from \$500 to \$1,000 and created the three tiers of felony theft listed below.

<b><u>Value of Property and/or Services</u></b>	<b><u>Maximum Penalty</u></b>
Between \$1,000 and \$10,000	10 years imprisonment and/or a \$10,000 fine
Between \$10,000 and \$100,000	15 years imprisonment and/or a \$15,000 fine
\$100,000 or more	25 years imprisonment and/or a \$25,000 fine

**Background:** Several states classify the possession or receipt of a stolen firearm as a felony. Delaware, Illinois, Kentucky, Maine, Ohio, Texas, and Washington are some of the states where these acts are considered felonies.

According to the Maryland Commission on Criminal Sentencing Policy, there were eight individuals sentenced for nine convictions for possession of a stolen regulated firearm in the circuit courts during fiscal 2011.

**State Expenditures:** General fund expenditures increase minimally as a result of the bill's incarceration penalty due to more people being committed to Division of Correction (DOC) facilities for longer periods of time. The number of people subject to the bill's provisions 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 \$2,900 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 variable medical care and variable operating costs) is about \$385 per month. Excluding all medical care, the average variable costs total \$170 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. Prior to fiscal 2010, the State reimbursed counties for part of their incarceration costs, on a per diem basis, after a person has served 90 days. Currently, the State provides assistance to the counties for locally sentenced inmates and for inmates who are sentenced to and awaiting transfer to the State correctional system. A \$45 per diem grant is provided to each county for each day between 12 and 18 months that a sentenced inmate is confined in a local detention center. Counties also receive an additional \$45 per day grant for inmates who have been sentenced to the custody of DOC but are confined in a local facility. The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in DOC facilities. The Baltimore City Detention Center, a State-operated facility, is used primarily for pretrial detentions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Commission on Criminal Sentencing Policy, Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of State Police, Department of Legislative Services

**Fiscal Note History:** First Reader - February 16, 2012  
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Analysis by: Amy A. Devadas

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