

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 46
Judiciary

(Delegate Waldstreicher)

Flash Mob Theft Act of 2012

This bill establishes that when multiple individuals conduct multiple acts of theft at the same time and in the same place, in concert, the acts may be considered as one crime and the aggregate value of the property stolen by the group (rather than the value of the property stolen by the alleged participant) may be used in determining whether the theft is a felony or misdemeanor.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures if the bill results in the imposition of sentences that will be served in State correctional facilities that were formerly served in local correctional facilities.

Local Effect: Minimal increase in local revenues from fines imposed in circuit court cases if the bill results in cases being transferred from the District Court to the circuit courts.

Small Business Effect: Potential minimal impact to the extent that the bill's provisions deter flash mobs from stealing from small businesses.

Analysis

Current Law: 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:

<u>Value of Property and/or Services</u>	<u>Maximum Penalty</u>
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: Flash mobs are groups of people who suddenly assemble in a public place at a specified time. The gatherings are often arranged through social media and the Internet and were traditionally associated with performances of choreographed songs or dances, or entertaining pranks. Recently however, flash mobs have been associated with thefts involving large groups of youth and young adults descending on unsuspecting businesses.

In 2011, convenience stores in Germantown and Silver Spring were the victims of flash mob thefts. Similar events occurred in the District of Columbia and across the nation. While the value of property stolen by flash mob theft participants individually may be small, the value of the property stolen by the group as a whole may be significant, depending on the size of the group and the extent of the theft.

The Council of the District of Columbia is considering similar legislation this year.

State Revenues: The bill is unlikely to appreciably increase State general fund revenues from fines imposed for the misdemeanor offense of theft.

The bill authorizes the aggregation of the property stolen by a flash mob to determine whether the theft should be classified as a felony or misdemeanor. It is unclear whether the bill authorizes the aggregation of the value of property stolen to determine whether the total value of the theft is a misdemeanor for less than \$1,000 rather than a misdemeanor for theft of a value less than \$100. While the imprisonment penalties are different for these misdemeanor offenses, the fines for both offenses are identical – \$500. Accordingly, if the total value of theft by a flash mob is more than \$100, but less than \$1,000, and it is determined that the bill does allow for the aggregation of values to authorize a charge of misdemeanor theft for a value of less than \$1,000, the revenue from the misdemeanor fines assessed under the provisions of this bill is not likely to change significantly.

State Expenditures: General fund expenditures increase minimally as a result of the bill's effect on incarceration penalties 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 convictions related 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 the Division of Correction 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.

Local Revenues: Revenues increase minimally as a result of the monetary penalties in cases transferred from the District Court to the circuit court as a result of the bill.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore City; Calvert, Caroline, and Montgomery counties; Department of State Police; Office of the Public Defender; State's Attorneys' Association; United Press International; Council of the District of Columbia; *gazette.net*; *Washington Examiner*; Department of Legislative Services

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