

**Department of Legislative Services**  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

House Bill 727  
Judiciary

(Delegate McDermott, *et al.*)

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**Criminal Defendants - Citations - Theft**

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This bill requires a police officer to charge a person by citation for theft of property or services with a value of less than \$1,000.

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**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances. It is anticipated that any decrease in operational expenditures or operational efficiencies experienced by the District Court, Department of State Police (DSP), or the Department of Public Safety and Correctional Services (DPSCS) as a result of the bill will be shifted to other functions.

**Local Effect:** The bill is not expected to materially affect local finances. It is anticipated that any decrease in operational expenditures or operational efficiencies experienced by local law enforcement and local corrections departments from fewer arrests and pretrial detentions will be shifted to other functions.

**Small Business Effect:** None.

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**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 is subject to maximum penalties of imprisonment for 18 months and/or a fine of \$500.

Chapter 655 of 2009 (HB 66) 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

Pursuant to Chapters 504 and 505 of 2012 (SB 422/HB 261), as of January 1, 2013, in addition to any other law allowing a crime to be charged by citation, a police officer must issue a citation for (1) possession of marijuana and (2) any misdemeanor or local ordinance violation that does not carry a penalty of imprisonment or carries a maximum penalty of imprisonment for 90 days or less, with specified exceptions.

The officer may issue the citation only if (1) the officer is satisfied with the defendant's evidence of identity; (2) the officer reasonably believes that the defendant will comply with the citation; (3) the officer reasonably believes that the failure to charge on a statement of charges will not pose a threat to public safety; (4) the defendant is not subject to arrest for another criminal charge arising out of the same incident; and (5) the defendant complies with all lawful orders by the officer. A police officer who has grounds to make a warrantless arrest for an offense that may be charged by citation may (1) issue a citation in lieu of making the arrest or (2) make the arrest and subsequently issue a citation in lieu of continued custody.

Pursuant to Chapters 29 and 30 of 2012 (SB 131/HB 115) a police officer's authority to make warrantless arrests was expanded to theft crimes with a property value of less than \$1,000.

**Background:** According to the Judiciary, there were 21,567 violations for theft of property valued at less than \$1,000 in the District Court during fiscal 2011.

**State Expenditures:** General fund expenditures may decrease minimally for the Judiciary, DSP, and DPSCS to the extent that the bill reduces the number of District Court commissioner initial appearances by arrestees, the number of arrests, and the number of pretrial detentions in Baltimore City. This decrease may be offset in part by similar costs incurred should the cited defendants fail to appear in court. However, any savings experienced by the Judiciary, DSP, and DPSCS are likely to be shifted to other functions within those agencies.

As previously mentioned, there were 21,567 cases for theft of property valued at less than \$1,000 in the District Court during fiscal 2011. Data is not available on how many of the

individuals represented by these cases were charged with additional offenses that are not eligible for citations or were otherwise ineligible to receive a citation.

**Local Expenditures:** Carroll, Cecil, Harford, and Montgomery counties advise that they do not anticipate a fiscal impact from the bill. The Baltimore County Department of Corrections advises that there were 1,422 cases last year of theft under \$1,000 that impacted 1,107 inmates. The theft charge was the only charge for 410 of these inmates. The remaining inmates had numerous charges within their arrests. Only 71 of these 410 inmates were first time admissions to Baltimore County's jail.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Baltimore, Carroll, Cecil, Harford, and Montgomery counties; Department of General Services; Judiciary (Administrative Office of the Courts); Maryland Department of Transportation; Department of Natural Resources; Department of Legislative Services

**Fiscal Note History:** First Reader - February 15, 2013  
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