

Department of Legislative Services
Maryland General Assembly
2015 Session

FISCAL AND POLICY NOTE

House Bill 128
Judiciary

(Delegate Afzali, *et al.*)

Criminal Law - Crimes Against Property - Trespass to a Vehicle

This bill prohibits a person from knowingly entering the vehicle of another person, or part of the person's vehicle, without proper authorization from the owner or rightful occupant of the vehicle.

Violators are guilty of a misdemeanor, punishable by (1) imprisonment for up to 90 days and/or a \$500 maximum fine for a first violation; (2) imprisonment for up to six months and/or a maximum fine of \$1,000 for a second violation occurring within two years after the first violation; and (3) imprisonment for up to one year and/or a \$2,500 maximum fine for each subsequent violation occurring within two years after the preceding violation.

Fiscal Summary

State Effect: Minimal increase in general fund revenues and expenditures due to the bill's penalty provisions. The magnitude of the bill's fiscal impact depends on the extent to which the bill criminalizes behavior that is not illegal under existing statute and law enforcement's interpretation of the bill's prohibitions.

Local Effect: Minimal increase in local revenues and expenditures due to the bill's penalty provisions.

Small Business Effect: None.

Analysis

Bill Summary: Under the subtitle in which the bill's provisions are contained, a "vehicle" is defined as any device in, on, or by which any individual or property is or might be transported or towed on a highway. While "vehicle" includes a low-speed vehicle and an off-highway recreational vehicle, it does not include an electric personal assistive mobility device.

Current Law: Unlawfully taking the property of another individual, possessing or asserting control over the property of another individual without authorization, or entering specified property without authorization are actions that are subject to a variety of criminal prohibitions and penalties, depending on the particular events and actions involved.

Carjacking – 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.

Violators are guilty of carjacking, a felony punishable by imprisonment for up to 30 years. An individual who employs or displays a dangerous weapon during the commission of a carjacking is guilty of armed carjacking. Armed carjacking is subject to the same penalty as standard carjacking. A sentence imposed for carjacking (armed or otherwise) 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.

General Theft – A person may not, under specified circumstances (1) willfully or knowingly obtain or exert unauthorized control over property; (2) obtain control over property by willfully or knowingly using deception; (3) possess stolen property knowing that it has been stolen, or believing that it probably has been stolen; or (4) obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property. A violator is required to restore the owner’s property or pay the owner the value of the property or services and is subject to the penalties listed below:

Value of Property and/or Services

Maximum Penalty

Less than \$100

Misdemeanor – 90 days imprisonment and/or a \$500 fine

Less than \$1,000

Misdemeanor – 18 months imprisonment and/or a \$500 fine

Less than \$1,000 (two or more prior convictions)

Misdemeanor – 5 years imprisonment and/or a \$5,000 fine

Between \$1,000 and \$10,000

Felony – 10 years imprisonment and/or \$10,000 fine

Between \$10,000 and \$100,000

Felony – 15 years imprisonment and/or \$15,000 fine

\$100,000 or more

Felony – 25 years imprisonment and/or \$25,000 fine

Motor Vehicle Theft – A person may not knowingly and willfully take a motor vehicle out of the owner’s lawful custody, control, or use a motor vehicle without the owner’s consent. Violators are guilty of felony motor vehicle theft and are subject to maximum penalties of imprisonment for five years and/or a fine of \$5,000. A conviction for motor vehicle theft must merge into a conviction for general theft for the same act or transaction.

Under the carjacking and theft statutes, a “motor vehicle” is a vehicle that (1) is self-propelled or propelled by electric power obtained from overhead electrical wires and (2) is not operated on rails. While the definition of a “motor vehicle” includes a low-speed vehicle, it does not include a moped, motor scooter, or an electric bicycle, as those devices are defined under specified provisions of the Transportation Article.

Breaking and Entering a Motor Vehicle (Rogue and Vagabond) – A person may not be in or on the motor vehicle of another with the intent to commit theft of the motor vehicle or property that is in or on the motor vehicle. This offense also prohibits various activities involving the use or possession of burglar’s tools. Violators are guilty of a misdemeanor, must be considered a rogue and vagabond, and are subject to imprisonment for up to three years.

Wanton Trespass on Private Property – A person may not enter or cross over private property or board the boat or other marine vessel of another, after having been notified by the owner or the owner’s agent not to do so, unless entering or crossing under a good faith claim of right or ownership. A person is also prohibited from remaining on private property including the boat or other marine vessel of another, after having been notified by the owner or the owner’s agent not to do so.

Violators are guilty of a misdemeanor, punishable by (1) imprisonment for up to 90 days and/or a \$500 maximum fine for a first violation; (2) imprisonment for up to six months and/or a maximum fine of \$1,000 for a second violation occurring within two years after the first violation; and (3) imprisonment for up to one year and/or a \$2,500 maximum fine for each subsequent violation occurring within two years after the preceding violation.

State Fiscal Effect: The bill’s language appears to apply to a wide variety of situations. The magnitude of the bill’s impact depends on (1) the extent to which the bill criminalizes behavior that is not illegal under existing statute and (2) law enforcement’s interpretation of the bill’s prohibitions.

To the extent that the bill criminalizes behavior that is not illegal under existing statute, general fund revenues increase minimally as a result of the bill’s monetary penalty provisions from cases heard in the District Court.

General fund expenditures increase minimally as a result of the bill's incarceration penalties due to more people being committed to State correctional facilities for convictions in Baltimore City.

Generally, persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to a local detention facility. 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 bill's monetary penalty provisions from cases heard in the circuit courts.

Local Expenditures: Expenditures increase as a result of the bill's incarceration penalties. Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$60 to \$160 per inmate in recent years.

Baltimore County advises that its State's Attorney can handle any additional cases with existing resources. According to the county, the extent of the bill's impact depends on the length of incarceration of individuals convicted as a result of the bill.

Dorchester County advises that the bill does not have a fiscal impact on its Sheriff's Office. Garrett County advises that the bill does not have a fiscal impact. Montgomery County Sheriff's Office advises that it does not anticipate a significant fiscal impact from the bill. Montgomery County Police Department (MCPD) advises that the bill's impact is minimal and can be absorbed with existing resources. MCPD also advises that it files criminal charges in similar circumstances under the breaking and entering a motor vehicle (rogue and vagabond) statute.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Baltimore, Dorchester, Garrett, and Montgomery counties; Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Department of State Police; Office of the Public Defender; Department of Public Safety and Correctional Services; State's Attorneys' Association; Department of Legislative Services

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