

HOUSE BILL 1362

E1, E2

6lr3013
CF SB 949

By: **Delegates Anderson, Atterbeary, Carter, Conaway, Dumais, Glass, Malone, McComas, Moon, Rosenberg, Sanchez, Smith, Sydnor, and B. Wilson**

Introduced and read first time: February 12, 2016

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Crimes – Robbery, Burglary, or Theft of Property – Controlled Dangerous**
3 **Substances**

4 FOR the purpose of clarifying that the crime of robbery includes robbing or attempting to
5 rob another of certain controlled dangerous substances; establishing the offense of
6 breaking and entering the storehouse of another with the intent to steal, take, or
7 carry away certain controlled dangerous substances; providing that a certain penalty
8 applies to a certain offense; providing that a certain person shall be ordered to
9 undergo a certain drug assessment; providing that a certain person shall be entered
10 into a certain drug addiction treatment program instead of being subject to a certain
11 penalty; clarifying that the crime of theft includes the theft of certain controlled
12 dangerous substances; defining certain terms; and generally relating to controlled
13 dangerous substances.

14 BY repealing and reenacting, without amendments,
15 Article – Criminal Law
16 Section 3–401(a), (d)(1), and (e), 3–402, 6–201(a), 7–101(a) and (i)(1), and
17 7–104(a) through (g)
18 Annotated Code of Maryland
19 (2012 Replacement Volume and 2015 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Law
22 Section 3–401(d)(2)(xiii) and (xiv), 6–201(d) through (h), 6–203, and
23 7–101(i)(2)(xiii) and (xiv)
24 Annotated Code of Maryland
25 (2012 Replacement Volume and 2015 Supplement)

26 BY adding to
27 Article – Criminal Law

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 3–401(d)(2)(xv), 6–201(d), and 7–101(i)(2)(xv)
2 Annotated Code of Maryland
3 (2012 Replacement Volume and 2015 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
5 That the Laws of Maryland read as follows:

6 **Article – Criminal Law**

7 3–401.

8 (a) In this subtitle the following words have the meanings indicated.

9 (d) (1) “Property” means anything of value.

10 (2) “Property” includes:

11 (xiii) a financial instrument; [and]

12 (xiv) information, electronically produced data, and a computer
13 software or program in a form readable by machine or individual; AND

14 **(XV) A DRUG, A SUBSTANCE, OR AN IMMEDIATE PRECURSOR**
15 **LISTED AS A CONTROLLED DANGEROUS SUBSTANCE IN SCHEDULE II THROUGH**
16 **SCHEDULE V OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE.**

17 (e) “Robbery” retains its judicially determined meaning except that:

18 (1) robbery includes obtaining the service of another by force or threat of
19 force; and

20 (2) robbery requires proof of intent to withhold property of another:

21 (i) permanently;

22 (ii) for a period that results in the appropriation of a part of the
23 property’s value;

24 (iii) with the purpose to restore it only on payment of a reward or
25 other compensation; or

26 (iv) to dispose of the property or use or deal with the property in a
27 manner that makes it unlikely that the owner will recover it.

28 3–402.

1 (a) A person may not commit or attempt to commit robbery.

2 (b) A person who violates this section is guilty of a felony and on conviction is
3 subject to imprisonment not exceeding 15 years.

4 6–201.

5 (a) In this subtitle the following words have the meanings indicated.

6 **(D) “CONTROLLED DANGEROUS SUBSTANCE” MEANS A DRUG, A**
7 **SUBSTANCE, OR AN IMMEDIATE PRECURSOR LISTED AS A CONTROLLED DANGEROUS**
8 **SUBSTANCE IN SCHEDULE II THROUGH SCHEDULE V OF TITLE 5, SUBTITLE 4 OF**
9 **THIS ARTICLE.**

10 **[(d)] (E)** “Crime of violence” has the meaning stated in § 14–101 of this article.

11 **[(e)] (F)** “Dwelling” retains its judicially determined meaning except to the
12 extent that its meaning is expressly or impliedly changed in this subtitle.

13 **[(f)] (G)** “Enter” retains its judicially determined meaning except to the extent
14 that its meaning is expressly or impliedly changed in this subtitle.

15 **[(g)] (H)** (1) “Firearm” includes:

16 (i) a handgun, antique firearm, rifle, shotgun, short-barreled
17 shotgun, and short-barreled rifle, as those terms are defined in § 4–201 of this article;

18 (ii) a machine gun, as defined in § 4–401 of this article; and

19 (iii) a regulated firearm, as defined in § 5–101 of the Public Safety
20 Article.

21 (2) “Firearm” does not include a firearm that has been modified to be
22 permanently inoperative.

23 **[(h)] (I)** (1) “Storehouse” retains its judicially determined meaning.

24 (2) “Storehouse” includes:

25 (i) a building or other construction, or a watercraft;

26 (ii) a barn, stable, pier, wharf, and any facility attached to a pier or
27 wharf;

28 (iii) a storeroom or public building; and

1 (iv) a trailer, aircraft, vessel, or railroad car.

2 6-203.

3 (a) A person may not break and enter the storehouse of another with the intent
4 to commit theft, a crime of violence, or arson in the second degree.

5 (b) A person may not break and enter the storehouse of another with the intent
6 to steal, take, or carry away a firearm.

7 **(C) A PERSON MAY NOT BREAK AND ENTER THE STOREHOUSE OF ANOTHER**
8 **WITH THE INTENT TO STEAL, TAKE, OR CARRY AWAY A CONTROLLED DANGEROUS**
9 **SUBSTANCE.**

10 **[(c)] (D) [A] SUBJECT TO SUBSECTION (E) OF THIS SECTION,** A person who
11 violates this section is guilty of the felony of burglary in the second degree and on conviction
12 is subject to:

13 (1) for a violation of subsection (a) of this section, imprisonment not
14 exceeding 15 years; and

15 (2) for a violation of subsection (b) **OR (C)** of this section, imprisonment not
16 exceeding 20 years or a fine not exceeding \$10,000 or both.

17 **(E) (1) A PERSON FOUND GUILTY OF A VIOLATION OF SUBSECTION (C) OF**
18 **THIS SECTION SHALL BE ORDERED TO UNDERGO A MANDATORY DRUG ASSESSMENT**
19 **UNDER § 8-505 OF THE HEALTH – GENERAL ARTICLE.**

20 **(2) IF THE ASSESSMENT DESCRIBED IN PARAGRAPH (1) OF THIS**
21 **SUBSECTION DETERMINES THAT THE PERSON HAS AN ADDICTION TO A**
22 **CONTROLLED DANGEROUS SUBSTANCE, THE PENALTY PROVIDED IN SUBSECTION**
23 **(D)(2) MAY NOT BE IMPOSED AND THE PERSON SHALL BE ENTERED INTO A DRUG**
24 **ADDICTION TREATMENT PROGRAM BY THE DEPARTMENT OF HEALTH AND MENTAL**
25 **HYGIENE.**

26 7-101.

27 (a) In this part the following words have the meanings indicated.

28 (i) (1) “Property” means anything of value.

29 (2) “Property” includes:

30 (xiii) a financial instrument; [and]

1 (xiv) information, electronically produced data, and a computer
2 software or program in a form readable by machine or individual; AND

3 (XV) A DRUG, A SUBSTANCE, OR AN IMMEDIATE PRECURSOR
4 LISTED AS A CONTROLLED DANGEROUS SUBSTANCE IN SCHEDULE II THROUGH
5 SCHEDULE V OF TITLE 5, SUBTITLE 4 OF THIS ARTICLE.

6 7–104.

7 (a) A person may not willfully or knowingly obtain or exert unauthorized control
8 over property, if the person:

9 (1) intends to deprive the owner of the property;

10 (2) willfully or knowingly uses, conceals, or abandons the property in a
11 manner that deprives the owner of the property; or

12 (3) uses, conceals, or abandons the property knowing the use, concealment,
13 or abandonment probably will deprive the owner of the property.

14 (b) A person may not obtain control over property by willfully or knowingly using
15 deception, if the person:

16 (1) intends to deprive the owner of the property;

17 (2) willfully or knowingly uses, conceals, or abandons the property in a
18 manner that deprives the owner of the property; or

19 (3) uses, conceals, or abandons the property knowing the use, concealment,
20 or abandonment probably will deprive the owner of the property.

21 (c) (1) A person may not possess stolen personal property knowing that it has
22 been stolen, or believing that it probably has been stolen, if the person:

23 (i) intends to deprive the owner of the property;

24 (ii) willfully or knowingly uses, conceals, or abandons the property
25 in a manner that deprives the owner of the property; or

26 (iii) uses, conceals, or abandons the property knowing that the use,
27 concealment, or abandonment probably will deprive the owner of the property.

28 (2) In the case of a person in the business of buying or selling goods, the
29 knowledge required under this subsection may be inferred if:

30 (i) the person possesses or exerts control over property stolen from
31 more than one person on separate occasions;

1 (ii) during the year preceding the criminal possession charged, the
2 person has acquired stolen property in a separate transaction; or

3 (iii) being in the business of buying or selling property of the sort
4 possessed, the person acquired it for a consideration that the person knew was far below a
5 reasonable value.

6 (3) In a prosecution for theft by possession of stolen property under this
7 subsection, it is not a defense that:

8 (i) the person who stole the property has not been convicted,
9 apprehended, or identified;

10 (ii) the defendant stole or participated in the stealing of the property;

11 (iii) the property was provided by law enforcement as part of an
12 investigation, if the property was described to the defendant as being obtained through the
13 commission of theft; or

14 (iv) the stealing of the property did not occur in the State.

15 (4) Unless the person who criminally possesses stolen property
16 participated in the stealing, the person who criminally possesses stolen property and a
17 person who has stolen the property are not accomplices in theft for the purpose of any rule
18 of evidence requiring corroboration of the testimony of an accomplice.

19 (d) A person may not obtain control over property knowing that the property was
20 lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature
21 or amount of the property, if the person:

22 (1) knows or learns the identity of the owner or knows, is aware of, or
23 learns of a reasonable method of identifying the owner;

24 (2) fails to take reasonable measures to restore the property to the owner;
25 and

26 (3) intends to deprive the owner permanently of the use or benefit of the
27 property when the person obtains the property or at a later time.

28 (e) A person may not obtain the services of another that are available only for
29 compensation:

30 (1) by deception; or

31 (2) with knowledge that the services are provided without the consent of
32 the person providing them.

1 (f) Under this section, an offender's intention or knowledge that a promise would
2 not be performed may not be established by or inferred solely from the fact that the promise
3 was not performed.

4 (g) (1) A person convicted of theft of property or services with a value of:

5 (i) at least \$1,000 but less than \$10,000 is guilty of a felony and:

6 1. is subject to imprisonment not exceeding 10 years or a fine
7 not exceeding \$10,000 or both; and

8 2. shall restore the property taken to the owner or pay the
9 owner the value of the property or services;

10 (ii) at least \$10,000 but less than \$100,000 is guilty of a felony and:

11 1. is subject to imprisonment not exceeding 15 years or a fine
12 not exceeding \$15,000 or both; and

13 2. shall restore the property taken to the owner or pay the
14 owner the value of the property or services; or

15 (iii) \$100,000 or more is guilty of a felony and:

16 1. is subject to imprisonment not exceeding 25 years or a fine
17 not exceeding \$25,000 or both; and

18 2. shall restore the property taken to the owner or pay the
19 owner the value of the property or services.

20 (2) Except as provided in paragraphs (3) and (4) of this subsection, a person
21 convicted of theft of property or services with a value of less than \$1,000, is guilty of a
22 misdemeanor and:

23 (i) is subject to imprisonment not exceeding 18 months or a fine not
24 exceeding \$500 or both; and

25 (ii) shall restore the property taken to the owner or pay the owner
26 the value of the property or services.

27 (3) A person convicted of theft of property or services with a value of less
28 than \$100 is guilty of a misdemeanor and:

29 (i) is subject to imprisonment not exceeding 90 days or a fine not
30 exceeding \$500 or both; and

1 (ii) shall restore the property taken to the owner or pay the owner
2 the value of the property or services.

3 (4) Subject to paragraph (5) of this subsection, a person who has two or
4 more prior convictions under this subtitle and who is convicted of theft of property or
5 services with a value of less than \$1,000 under paragraph (2) of this subsection is guilty of
6 a misdemeanor and:

7 (i) is subject to imprisonment not exceeding 5 years or a fine not
8 exceeding \$5,000 or both; and

9 (ii) shall restore the property taken to the owner or pay the owner
10 the value of the property or services.

11 (5) The court may not impose the penalties under paragraph (4) of this
12 subsection unless the State's Attorney serves notice on the defendant or the defendant's
13 counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before
14 trial that:

15 (i) the State will seek the penalties under paragraph (4) of this
16 subsection; and

17 (ii) lists the alleged prior convictions.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 2016.