

# SENATE BILL 385

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CF HB 446

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By: **Senator Cassilly**

Introduced and read first time: January 15, 2021

Assigned to: Judicial Proceedings

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## A BILL ENTITLED

1 AN ACT concerning

2 **Organized Retail Theft**

3 FOR the purpose of providing that multiple thefts committed by the same person in  
4 multiple counties under one scheme or continuing course of conduct may be  
5 aggregated and prosecuted in a certain county; applying certain penalties; repealing  
6 a certain provision of law prohibiting a court from imposing certain penalties under  
7 certain circumstances; altering a certain reference to the maximum value of certain  
8 property or services applicable to misdemeanor theft; requiring a court to make a  
9 finding as to whether a certain crime is organized retail theft under certain  
10 circumstances; providing that the State has a certain burden of proving that a  
11 certain crime is organized retail theft; requiring that a certain finding become part  
12 of the court record for certain purposes under certain circumstances; making  
13 clarifying changes; repealing an improper reference; defining a certain term; and  
14 generally relating to organized retail theft.

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Law  
17 Section 7–103(f)  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2020 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Criminal Procedure  
22 Section 2–203  
23 Annotated Code of Maryland  
24 (2018 Replacement Volume and 2020 Supplement)

25 BY adding to  
26 Article – Criminal Procedure  
27 Section 6–235  
28 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2018 Replacement Volume and 2020 Supplement)

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

#### Article – Criminal Law

7–103.

(f) (1) When theft is committed in violation of this part under one scheme or continuing course of conduct, whether from the same or several sources:

[(1)] (I) the conduct may be considered as one crime; and

[(2)] (II) the value of the property or services may be aggregated in determining whether the theft is a felony or a misdemeanor.

**(2) MULTIPLE THEFTS COMMITTED BY THE SAME PERSON IN MULTIPLE COUNTIES UNDER ONE SCHEME OR CONTINUING COURSE OF CONDUCT MAY BE AGGREGATED AND PROSECUTED IN ANY COUNTY IN WHICH ANY ONE OF THE THEFTS OCCURRED.**

#### Article – Criminal Procedure

2–203.

(a) A police officer without a warrant may arrest a person if the police officer has probable cause to believe:

(1) that the person has committed a crime listed in subsection (b) of this section; and

(2) that unless the person is arrested immediately, the person:

(i) may not be apprehended;

(ii) may cause physical injury or property damage to another; or

(iii) may tamper with, dispose of, or destroy evidence.

(b) The crimes referred to in subsection (a)(1) of this section are:

(1) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article;

(2) malicious burning under § 6–104 or § 6–105 of the Criminal Law Article

1 or an attempt to commit the crime;

2 (3) malicious mischief under § 6–301 of the Criminal Law Article or an  
3 attempt to commit the crime;

4 (4) a theft crime where the value of the property or services stolen is less  
5 than [\$1,000] **\$1,500** under § 7–104 [or § 7–105] of the Criminal Law Article, **INCLUDING**  
6 **§ 7–104(G)(4) OF THE CRIMINAL LAW ARTICLE**, or an attempt to commit the crime;

7 (5) the crime of giving or causing to be given a false alarm of fire under §  
8 9–604 of the Criminal Law Article;

9 (6) indecent exposure under § 11–107 of the Criminal Law Article;

10 (7) a crime that relates to controlled dangerous substances under Title 5 of  
11 the Criminal Law Article or an attempt to commit the crime;

12 (8) the wearing, carrying, or transporting of a handgun under § 4–203 or §  
13 4–204 of the Criminal Law Article;

14 (9) carrying or wearing a concealed weapon under § 4–101 of the Criminal  
15 Law Article;

16 (10) prostitution and related crimes under Title 11, Subtitle 3 of the  
17 Criminal Law Article; and

18 (11) violation of a condition of pretrial or posttrial release under § 5–213.1  
19 of this article.

20 **6–235.**

21 (A) IN THIS SECTION, “ORGANIZED RETAIL THEFT” MEANS THE  
22 COMMISSION, EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS, OF A SERIES  
23 OF THEFTS OF RETAIL MERCHANDISE FROM ONE OR MORE RETAIL MERCHANTS  
24 WITH THE INTENT TO:

25 (1) RETURN THE MERCHANDISE TO THE MERCHANT FOR VALUE; OR

26 (2) RESELL, TRADE, OR BARTER THE MERCHANDISE FOR VALUE.

27 (B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A PROBATION  
28 BEFORE JUDGMENT DISPOSITION FOR THEFT UNDER § 7–104 OF THE CRIMINAL  
29 LAW ARTICLE, ON REQUEST OF THE STATE’S ATTORNEY THE COURT SHALL MAKE A  
30 FINDING OF FACT BASED ON EVIDENCE PRODUCED AT TRIAL AS TO WHETHER THE  
31 CRIME IS ORGANIZED RETAIL THEFT.

1                   **(2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE**  
2 **OF THE EVIDENCE THAT THE CRIME IS ORGANIZED RETAIL THEFT.**

3                   **(C) IF THE COURT FINDS THAT THE CRIME IS ORGANIZED RETAIL THEFT**  
4 **UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL BECOME PART OF**  
5 **THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE**  
6 **INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10-215 OF THIS ARTICLE.**

7                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
8 October 1, 2021.