

Department of Legislative Services  
Maryland General Assembly  
2024 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 59  
Judiciary

(Delegate Mangione)

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Crimes of Violence - Motor Vehicle Theft

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This bill expands the definition of a “crime of violence” under § 14-101 of the Criminal Law Article and § 5-101 of the Public Safety Article to include motor vehicle theft.

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Fiscal Summary

**State Effect:** Potential significant *cumulative* increase in general fund expenditures, most likely in the out-years, due to expanded application of existing sentencing and incarceration-related provisions, as discussed below. Revenues are not affected.

**Local Effect:** The bill does not materially affect local government operations or finances.

**Small Business Effect:** None.

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Analysis

**Current Law:**

*Motor Vehicle Theft*

A person may not knowingly and willfully take a motor vehicle out of its owner’s lawful custody, control, or use without the owner’s consent. Under § 7-105 of the Criminal Law Article, a violator is guilty of a felony and on conviction is subject to imprisonment for up to five years and/or a maximum fine of \$5,000. The convicted person must restore the motor vehicle to the owner or, if unable to, pay its full value to the owner.

A person prosecuted for motor vehicle theft under § 7-105 of the Criminal Law Article may also be prosecuted for general theft under § 7-104 of the Criminal Law Article. If a person is convicted under both sections for the same act or transaction, the conviction for motor vehicle theft merges for sentencing purposes into the conviction for general theft.

*General Theft*

**Exhibit 1** lists the penalties for general theft violations. In addition to these penalties, a violator is required to restore the owner's property or pay the owner the value of the property or services.

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**Exhibit 1**  
**Penalties for General Theft**

<u>Value of Property and/or Services</u>	<u>Maximum Penalty</u>
Less than \$100*	Misdemeanor – 90 days imprisonment and/or \$500 fine
At least \$100 but less than \$1,500*	Misdemeanor – 6 months imprisonment and/or \$500 fine (first conviction) or 1 year imprisonment and/or \$500 fine (second or subsequent conviction)
Less than \$1,500 (four or more prior theft convictions)**	Misdemeanor – 5 years imprisonment and/or \$5,000 fine
At least \$1,500 but less than \$25,000	Felony – 5 years imprisonment and/or \$10,000 fine
At least \$25,000 but less than \$100,000	Felony – 10 years imprisonment and/or \$15,000 fine
\$100,000 or more	Felony – 20 years imprisonment and/or \$25,000 fine

\* Subject to two-year statute of limitations.

\*\* Subject to specified notice requirements.

Source: Department of Legislative Services

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Section 7-110 of the Criminal Law Article specifies presumptions and permitted and prohibited defenses to the crime of theft. The District Court has concurrent jurisdiction with the circuit courts over felony theft violations.

### *Crimes of Violence – § 14-101 of the Criminal Law Article*

Section 14-101(a) of the Criminal Law Article defines a “crime of violence” as (1) abduction; (2) arson in the first degree; (3) kidnapping; (4) manslaughter, except involuntary manslaughter; (5) mayhem; (6) maiming; (7) murder; (8) rape; (9) robbery; (10) carjacking (including armed carjacking); (11) first- and second-degree sexual offenses; (12) use of a firearm in the commission of a felony or other crime of violence, except possession with intent to distribute a controlled dangerous substance; (13) child abuse in the first degree; (14) sexual abuse of a minor under specified circumstances; (15) home invasion; (16) felony sex trafficking and forced marriage; (17) an attempt to commit crimes (1) through (16); (18) continuing course of certain sexual conduct with a child; (19) assault in the first degree; and (20) assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree.

### *Mandatory Sentences for Crimes of Violence*

Subsequent offenders sentenced for a crime of violence under § 14-101 of the Criminal Law Article are generally subject to mandatory sentences. For a second conviction of a crime of violence committed on or after October 1, 2018, a person must be sentenced to a mandatory minimum, nonsuspendable and nonparolable term of 10 years, if the person has been convicted on a prior occasion of a crime of violence (including a conviction for a crime committed before October 1, 2018) and served a term of confinement in a correctional facility for that conviction.

For a third conviction, a person must be sentenced to a mandatory minimum, nonsuspendable and nonparolable term of 25 years, if the person has been convicted on two prior separate occasions of a crime of violence, in which the second or succeeding crime is committed after there has been a charging document filed for the preceding occasion and for which the convictions do not arise from a single incident, and has served at least one term of confinement in a correctional facility as a result of a conviction of a crime of violence.

For a fourth conviction, a person who has served three separate terms of confinement in a correctional facility as a result of three separate convictions of any crime of violence must be sentenced to life imprisonment without the possibility of parole.

### *Diminution Credits*

Generally, incarcerated individuals sentenced to a State correctional facility are entitled to earn diminution of confinement credits to reduce the lengths of their incarcerations. Individuals sentenced for a “crime of violence” earn diminution credits at a lower rate than

other incarcerated individuals. The following types of incarcerated individuals may not earn diminution credits:

- an incarcerated individual who is serving a sentence for first- or second-degree rape against a victim younger than 16;
- an incarcerated individual who is serving a sentence for first- or second-degree sexual offense, as the offenses existed before October 1, 2017, against a victim younger than 16;
- an incarcerated individual who is serving a sentence for a subsequent conviction of third-degree sexual offense against a victim younger than 16; and
- an incarcerated individual imprisoned for a lifetime sexual offender supervision violation.

Diminution credits are deducted from an incarcerated individual's "term of confinement," which is defined as (1) the length of the sentence, for a single sentence or (2) the period from the first day of the sentence that begins first through the last day of the sentence that ends last, for concurrent sentences, partially concurrent sentences, consecutive sentences, or a combination of concurrent and consecutive sentences.

Diminution credits are made for good conduct, work tasks, education, and special projects or programs. For additional information on diminution credits, see the [Maryland Diminution Credit System](#) report published by the Department of Legislative Services in December 2020.

### *Parole and Mandatory Supervision*

In general, a State incarcerated individual who is serving a sentence of six months or more is not eligible for parole until the incarcerated individual has served one-quarter of their sentence. A sentence for a violent crime does not become parole-eligible until the incarcerated individual has served one-half of the sentence. An incarcerated individual serving a term of incarceration that includes a mandatory minimum sentence that is not subject to parole by statute is not eligible for parole until the incarcerated individual has served that mandatory minimum sentence.

As previously noted, a person convicted for the fourth time of a crime of violence must be sentenced to life imprisonment without the possibility of parole. In general, a sentence for a third crime of violence or a second crime of violence committed on or after October 1, 2018, is not eligible for parole. With the exception of a person registered as or eligible to register as a sexual offender, offenders who are age 60 or older who have served at least 15 years of a sentence for a subsequent crime of violence may apply for and be granted geriatric parole.

Generally, a person convicted of a violent crime committed on or after October 1, 2009, is not eligible for release on mandatory supervision until after the person becomes eligible for parole.

#### *Substance Abuse Evaluation and Commitment*

A court may not order a person serving a sentence for a crime of violence under § 14-101 of the Criminal Law Article to be evaluated for or committed to alcohol or drug abuse treatment with the Maryland Department of Health (MDH) under §§ 8-505 and 8-507 of the Health-General Article, respectively, until the person is eligible for parole. However, these eligibility restrictions do not prohibit such a defendant from participating in any other treatment program or receiving treatment under MDH supervision under any other statutory provision.

#### *Crimes of Violence – § 5-101 of the Public Safety Article*

Under § 5-101(c) of the Public Safety Article, a “crime of violence” is defined as (1) abduction; (2) arson in the first degree; (3) assault in the first or second degree; (4) burglary in the first, second, or third degree; (5) carjacking and armed carjacking; (6) escape in the first degree; (7) kidnapping; (8) voluntary manslaughter; (9) maiming; (10) mayhem; (11) murder in the first or second degree; (12) rape in the first or second degree; (13) robbery; (14) robbery with a dangerous weapon; (15) sexual offense in the first, second, or third degree; (16) home invasion; (17) a felony offense under Title 3, Subtitle 11 of the Criminal Law Article; (18) an attempt to commit any of the crimes listed in (1) through (17); and (19) assault with intent to commit any of the crimes listed in (1) through (17) or a crime punishable by imprisonment for more than 1 year.

This definition is cross-referenced in statutes pertaining to reckless endangerment, committing a crime in the presence of a minor, use of a handgun or antique firearm in the commission of a crime, use of an assault weapon or magazine in the commission of a felony or a crime of violence, and possession of a regulated firearm, a rifle, or a shotgun by a person previously convicted of specified offenses. Under some of these statutes, an individual who commits or has been previously convicted of a crime of violence under § 5-101 of the Public Safety Article is subject to criminal prohibitions and penalties.

**State Expenditures:** *Cumulative* general fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) *may* increase significantly, most likely in the out-years, as the overall effect on sentencing and incarceration of designating an offense as a crime of violence accumulates. The magnitude of this impact depends on the number of individuals sentenced for motor vehicle theft given the consequences of a crime of violence designation, recidivism among individuals previously sentenced for motor vehicle theft (and the corresponding penalties for subsequent offenders), and sentencing practices

for individuals subject to additional criminal offenses and penalties because of the bill's designation of motor vehicle theft as a crime of violence.

The Maryland State Commission on Criminal Sentencing Policy (MSCCSP) advises that, for fiscal 2023, it received information for 71 individuals sentenced to 84 total counts of motor vehicle theft under § 7-105 of the Criminal Law Article in the State's circuit courts; for fiscal 2022, MSCCSP received information for 71 individuals sentenced to 79 total counts of motor vehicle theft.

DPSCS advises that, for fiscal 2023, the Division of Correction (DOC) conducted intake on 83 individuals convicted of 86 total counts of motor vehicle theft; the average sentence length for this group was 2.6 years. In fiscal 2022, DOC received 71 individuals convicted of 74 total counts of motor vehicle theft; the average sentence length for this group was 2.8 years. DOC did not indicate how many of the individuals it received in fiscal 2022 and 2023 were subsequent offenders.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,110 per month. Excluding overhead, the average cost of housing a new State incarcerated individual (including health care costs) is about \$1,244 per month. Excluding all health care (which is a fixed cost under the current contract), the average variable costs total \$336 per month.

The bill is not anticipated to materially affect the workloads of the Judiciary and State's Attorneys' offices. The Office of the Public Defender (OPD) advises that the bill may increase workloads due to the impact of crime of violence designations on sentencing, necessitating the hiring of one full-time attorney, at a cost of \$89,686 in fiscal 2025 and increasing to \$122,681 in fiscal 2029. However, OPD provided no information on the bill's anticipated effect on its caseloads and workloads. Should existing OPD staffing levels prove insufficient, OPD can request additional positions through the budget process.

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### **Additional Information**

**Recent Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** None.

**Information Source(s):** Maryland State Commission on Criminal Sentencing Policy; Judiciary (Administrative Office of the Courts); Office of the Public Defender;

Maryland State's Attorneys' Association; Department of Public Safety and Correctional Services; Department of Legislative Services

**Fiscal Note History:** First Reader - February 4, 2024  
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Analysis by: Ralph W. Kettell

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510