

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 210
Judiciary

(Delegate Conaway, *et al.*)

Judicial Proceedings

Criminal Law - Mail and Package Theft (Porch Piracy Act of 2025)

This bill establishes the new offense of mail theft and corresponding penalties for mail theft violations. Under the bill, mail theft refers to (1) violations of the general theft statute (under § 7-104 of the Criminal Law Article) involving the theft of “mail” or (2) the commission of specified acts related to the theft of mail involving the use or possession of an “arrow key.” A sentence for a conviction for mail theft may be separate from and consecutive to or concurrent with a sentence for any other crime based on the acts establishing the violation. The District Court has concurrent jurisdiction with the circuit courts for felony mail theft, and a police officer or law enforcement agency may use facial recognition technology to investigate the commission or attempted commission of mail theft. Finally, the bill repeals the existing offense of taking and breaking open a letter without permission. Instead, the bill prohibits a person from knowingly and intentionally opening “mail” addressed to another without the permission of the other or the other’s authorized representative or designee. Violators are guilty of a misdemeanor, punishable by imprisonment for up to one month and/or a \$1,000 maximum fine.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations.

Local Effect: The bill is not expected to materially affect local finances or operations.

Small Business Effect: None.

Analysis

Bill Summary:

Definitions

“Arrow key” means a key designed exclusively for allowing an employee of the U.S. Postal Service (USPS) or a common carrier or delivery service to access a mailbox or other depository for storing mail.

“Mail” means an item that has been or is intended to be delivered by use of USPS or a common carrier or delivery service to a person whose address appears on the item. Mail includes an addressed letter, a postal card, or a package.

Exhibit 1 lists the penalties for a violation of § 7-104 of the Criminal Law Article (general theft) involving mail, mail theft involving an arrow key, and possession of an arrow key with the intent to use it to commit mail theft or allow it to be used to commit mail theft.

Exhibit 1 **Penalties for Mail Theft and Arrow Key Offenses under the Bill**

Offense

Penalties

| | |
|--|---|
| Theft involving one or more items of mail | Misdemeanor – imprisonment for up to two years and/or a maximum fine of \$1,000 |
| Theft of at least one item of mail using an arrow key | Felony – imprisonment for up to five years and/or a maximum fine of \$5,000 |
| Possession of an arrow key with the intent to use or allow the use of the arrow key to commit mail theft | Felony – imprisonment for up to three years and/or a maximum fine of \$3,000 |

Source: Department of Legislative Services

Current Law:

Opening a Letter without Permission – Repealed and Replaced Under the Bill

A person is prohibited from taking and breaking open a letter that is not addressed to them without permission from the person to whom the letter is addressed or the personal

representative of the addressee's estate. A violator is guilty of a misdemeanor and subject to imprisonment for six days and a fine of \$15.

General Theft Statute – § 7-104 of the Criminal Law Article

Under the general theft statute, 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; (4) obtain control over property knowing that the property was lost, mislaid, or delivered under a mistake as to the identity of the recipient or nature or amount of the property; or (5) obtain the services of another that are available only by compensation by deception or with knowledge that the services are provided without the provider's consent. 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 in **Exhibit 2**.

Postal Service-related Theft under Federal Law

It is a federal crime to steal or receive stolen mail, as specified under 18 USC § 1708. On conviction, a violator is subject to imprisonment for up to five years and/or a \$250,000 maximum fine.

It is also a federal crime to steal any property used by USPS, as specified under 18 USC § 1707. On conviction, a violator is subject to (1) if the value of the stolen property does not exceed \$1,000, imprisonment for up to one year and/or a maximum fine of \$100,000 or (2) if the value of stolen property is more than \$1,000, imprisonment for up to three years and/or a maximum fine of \$250,000.

Facial Recognition Technology

The use of facial recognition technology is subject to extensive requirements and restrictions. Generally, a police officer or other employee or agent of a law enforcement agency, in the furtherance of a criminal investigation, may only use facial recognition technology in limited circumstances, including to investigate specified crimes of violence, specified human trafficking offenses, specified child abuse offenses, a specified child pornography offense, specified hate crime offenses, specified weapon crimes, specified animal cruelty offenses, specified drug offenses, a specified stalking offense, a criminal act that presents a substantial and ongoing threat to public safety or national security, or a crime under the laws of another state substantially equivalent to one of the crimes listed that involves a fugitive from justice charged with a crime in that state and sought for extradition under Title 9 of the Criminal Procedure Article.

Exhibit 2
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

Additional Comments: According to the Judiciary, there were 18 violations (charges) and 0 guilty dispositions for violations of opening a letter without permission under § 3-905 of the Criminal Law Article in the District Court during fiscal 2023. There were 20 violations and 1 guilty disposition for this offense in the District Court during fiscal 2024. Data for general theft violations does not distinguish if violations involved the theft of mail or packages.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years; however, legislation with similar provisions has been proposed. For example, see SB 373 of 2024.

Designated Cross File: None.

Information Source(s): Calvert, Howard, and Prince George's counties; Department of Public Safety and Correctional Services; Judiciary (Administrative Office of the Courts); Maryland State Commission on Criminal Sentencing Policy; Office of the Public Defender; Department of Legislative Services

Fiscal Note History: First Reader - January 20, 2025
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