

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 126
Judiciary

(Delegate Conaway)

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

This bill prohibits the knowing or willful theft of “mail or package,” which is defined as an item delivered or left to be collected by the United States Postal Service (USPS) or a delivery service company that delivers tangible personal property. Violators are guilty of a felony and on conviction subject to imprisonment for up to five years. As a condition of sentencing, the court must order the defendant to (1) restore the stolen mail or package to the addressee or (2) pay restitution for the value of the mail or package. Any interest accrued on overdue court-ordered restitution must be evenly distributed to the addressee and the court.

Fiscal Summary

State Effect: Minimal increase in general fund expenditures due to the bill’s penalty provision, as discussed below. General fund revenues decrease minimally, as discussed below.

Local Effect: Minimal decrease in local government expenditures due to the bill’s penalty provision, as discussed below. Revenues are not materially affected.

Small Business Effect: None.

Analysis

Opening a Letter without Permission

Section 3-905 of the Criminal Law Article prohibits a person 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

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 1**.

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

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 the United States Postal Service, 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.

Restitution Payments – Interest

The Division of Parole and Probation (DPP) and the Department of Juvenile Services (DJS) may refer an overdue restitution account for collection to the Central Collections Unit (CCU) and, if probation or other supervision is terminated and restitution is still owed, must refer the overdue restitution account for collection to CCU.

Restitution is overdue if the restitution or a restitution payment is not paid by the date that the court orders or if no date is ordered, by the later of (1) the date DPP or DJS directs the restitution obligor to make payment or (2) 30 days after the court enters a judgment of restitution. If restitution is overdue, the amount of the arrearage (the amount owed) is the amount of restitution ordered and any legally allowed interest (10%), less any amount previously paid or received under the judgment of restitution.

State Revenues: General fund revenues decrease minimally from fines imposed in District Court cases (under the general theft statute) that shift to the circuit courts under the bill, which may be partially offset by collected interest on overdue restitution. This analysis assumes that the Judiciary returns interest on overdue restitution it receives pursuant to the bill to the general fund.

Shifting Cases

While the District Court has concurrent jurisdiction with the circuit courts over felony general theft offenses, the bill creates a new felony theft offense; also, mail theft that involves lesser value items that would be misdemeanor general thefts are felony mail thefts under the bill. Changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to more stringent penalty provisions, applicable to some offenses for prior felony convictions. Accordingly, it is assumed that this bill shifts an unknown number of cases from the District Court to the circuit courts. It

is not known whether such a prospective shift may spur more plea bargains and affect actual sentencing practices for this offense.

Interest on Overdue Restitution

Generally, when restitution is overdue, the amount owed and any interest can be referred to CCU for collection. Once collected, CCU remits those funds to the referring agency. CCU advises that it will continue this practice under the bill. This analysis assumes that any collected overdue restitution, including interest, is treated similarly to restitution that is not overdue and sent from the referring agency to the victim. Under the bill, the referring agency must distribute interest collected on overdue restitution to the victim (50%) and to the Judiciary (50%). Without additional data from CCU or the Judiciary, this analysis assumes that the interest transferred to the Judiciary from the referring agency is minimal and does not fully offset the decrease in general fund fine revenues.

The Comptroller distributes *unclaimed* money from judgments of restitution to the State Victims of Crime Fund (SVCF). If a victim entitled to restitution that has been treated as abandoned property is located after the money has been distributed, the Comptroller must reduce the next distribution to SVCF by the amount recovered by the victim. This analysis assumes that the bill's alteration of distribution of interest accrued on overdue restitution for theft of mail or packages does not materially affect SVCF revenues.

State Expenditures: General fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) increase minimally as a result of the bill's incarceration penalty due to people being committed to State correctional facilities rather than local facilities. This estimate assumes (1) most mail and package thefts are not reported to law enforcement and are not represented in the offense data in **Exhibit 2**; (2) mail and package thefts represent a small portion of the guilty dispositions listed in Exhibit 2; (3) individuals who received probation for theft in **Exhibit 3** are unlikely to be sentenced to incarceration under the bill; (4) the majority of stolen mail or packages have a value of less than \$1,500; and (5) as a result of plea bargaining, individuals subject to the bill's provisions are more likely to be sentenced under the general theft statute than under the bill.

Overall, the bill is not anticipated to materially affect the expenditures of the Judiciary, the Maryland State Commission on Criminal Sentencing Policy, or, as discussed below, the Office of the Public Defender (OPD).

Relevant Offense Data

Exhibit 2 contains information on the number of violations and guilty dispositions in the District Court and the circuit courts over the last two fiscal years under the general theft

statute. Information is not available on how many of these violations and guilty dispositions involved the theft of mail or packages.

Exhibit 2
Violations and Guilty Dispositions for Offenses under the General Theft Statute
Fiscal 2023 and 2024

	<u>Fiscal 2023</u>		<u>Fiscal 2024</u>	
	<u>Violations</u>	<u>Guilty Dispositions</u>	<u>Violations</u>	<u>Guilty Dispositions</u>
<u>District Court Offenses</u>				
Theft less than \$100	7,399	692	9,324	775
Theft at least \$100 but less than \$1,500	12,787	1,235	14,532	1,492
Theft at least \$1,500 but less than \$25,000	5,430	204	5,436	236
Theft at least \$25,000 but less than \$100,000	876	11	973	10
Theft \$100,000 or more	62	0	92	0
<u>Circuit Court Offenses</u>				
Theft less than \$100	1,104	96	1,130	97
Theft at least \$100 but less than \$1,500	3,094	503	2,988	503
Theft at least \$1,500 but less than \$25,000	2,116	226	1,852	268
Theft at least \$25,000 but less than \$100,000	403	38	489	49
Theft \$100,000 or more	40	13	50	6

Source: Maryland Judiciary

Department of Public Safety and Correctional Services

DPSCS advises that the bill may have a significant impact on incarceration expenditures. Exhibit 3 displays the number of individuals referred to DPP within DPSCS for theft less than \$100 and theft of at least \$100 but less than \$1,500. Data is not available on how many of the DPP cases listed below involve theft of mail or a package. Regardless, DPSCS advises that if even a portion of these individuals are incarcerated in State facilities under the bill it would have a significant effect on the Division of Correction within DPSCS. As noted above, this analysis assumes that mail or package thefts represent a small portion of the offenses listed in Exhibit 2, individuals sentenced to probation under the general theft statute are unlikely to be sentenced to incarceration under the bill, and individuals subject to the bill’s provisions are more likely to be sentenced under the general theft statute (which is still an available option).

Exhibit 3
Individuals Referred to the Division of Parole and Probation for Violations of Specified Theft Offenses in Fiscal 2024

<u>Offense</u>	<u>Number of Individuals Referred to the Division of Parole and Probation</u>
Theft less than \$100	406
Theft at least \$100 but less than \$1,500	1,268

Source: Department of Public Safety and Correctional Services; Department of Legislative Services

Thus, general fund expenditures for DPSCS increase minimally as a result of the bill’s incarceration penalty due to people being committed to State correctional facilities rather than local facilities as a result of the increased penalty provision.

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 \$5,339 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals who have

been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Office of the Public Defender

OPD advises that the bill will result in new cases for OPD requiring the equivalent of one attorney statewide. However, the bill creates a new felony offense for which individuals are likely already charged under the existing general theft statute. While the bill may result in an increased effort for existing OPD clients who are now charged with a felony offense under the bill (rather than only misdemeanor general theft offenses), OPD can likely accommodate any increased level effort within existing budgeted resources.

Local Expenditures: Local expenditures decrease minimally due to individuals shifting from local detention facilities to State correctional facilities.

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 \$140 to \$350 per incarcerated individual in recent years.

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 Budget and Management; Department of Public Safety and Correctional Services; Department of Legislative Services

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Analysis by: Donovan A. Ham

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