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Opposition to Unnecessary Theft Bills

BILLS:

HB 64 Theft of Mail Packages and Victim Notification

HB 79 Criminal Law – Mailing of Fake, Fraudulent, or Altered Documents – Prohibition

HB 109 Criminal Law – Misdemeanor Theft – Statute of Limitations

HB 126 Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2025)

HB 135 Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2025)

HB 143 Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2025)

HB 177 Criminal Law – Theft and Opening of Mail Packages

HB 210 Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2025)

HB 269 Criminal Law – Petty Theft – Statute of Limitations

HB 280 Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2025)

FROM: Maryland Office of the Public Defender

POSITION: Unfavorable

DATE: January 21, 2025

The Maryland Office of the Public Defender respectfully requests that the Judiciary Committee issue unfavorable reports on the above bills, all of which are addressed to theft and most of which concern mail theft. Our opposition is rooted in the fact that current Maryland law already criminalizes theft.¹ Indeed, Section 7-104 of the Criminal Law Section of the Maryland Code provides graduated penalties for thefts based upon the value of the goods or services stolen. The below chart illustrates how application of Section 7-104 works in a typical theft case.

¹ Federal law criminalizes mail theft in 18 U.S.C. § 1708, which carries a fine and imprisonment of “not more than five years, or both.” *Id.*

| Graduated Penalties Under MD Code, Criminal Law, § 7 – 104 (General Theft Provisions) | | | |
|---|--|--------------------|---|
| Subsection | Value Lost | Misdemeanor/Felony | Statutory Max. Penalty |
| (g)(1)(i) | More than \$1,500 but less than or equal to \$25,000 | Felony | 5 years imprisonment and/or a fine not more than \$10,000 (plus restitution) |
| (g)(1)(ii) | More than \$25,000 but less than \$100,000 | Felony | 10 years imprisonment and/or a fine not more than \$15,000 (plus restitution) |
| (g)(1)(iii) | More than or equal to \$100,000 | Felony | 20 years imprisonment and/or a fine of not more than \$25,000 (plus restitution) |
| (g)(2)(i)(1) | at least \$100 but less than \$1,500 | Misdemeanor | upon first conviction, 6 months imprisonment and/or a fine of not more than \$500 (plus restitution) |
| (g)(2)(i)(2) | at least \$100 but less than \$1,500 | Misdemeanor | upon second conviction, 1 year imprisonment and/or a fine of up to \$500 (plus restitution) |
| (g)(3)(i) | less than \$100 | Misdemeanor | imprisonment up to 90 days and/or a fine of \$500 (plus restitution) |

Two of the above bills, HB 109 and HB 269, would extend from 2 to 3 years the statute of limitations for prosecuting a theft of at least \$100 less than \$1,500 (pursuant to Section 7-104(g)(2)), and also less than \$100 (pursuant to Section 7-104(g)(3)), respectively. To put the fiscal impact of such a policy into perspective, it bears noting that OPD currently defends thousands of theft-**over** \$100, but less than \$1,500 every year. The charts below illustrate the number of cases OPD defended for the indicated fiscal and calendar years:

THEFT \$100-1,500 Annual Breakdown

FY Year
 Multiple selections Multiple selections

| Fiscal Year | | | | | | Calendar Year | | | | | |
|--|-------------|--------------|---------------|------------------------------|--|--|-------------|--------------|---------------|------------------------------|--|
| FY - # Matters with Charge - Theft \$100 - \$1,500 | | | | | | CY - # Matters with Charge - Theft \$100 - \$1,500 | | | | | |
| Charge Description | sectionCode | section Name | sectionNumber | # Cases Per Client Adjusted* | | Charge Description | sectionCode | section Name | sectionNumber | # Cases Per Client Adjusted* | |
| THEFT \$100 TO UNDER \$1,500 | CR 7-104 | 1 1137 | 3569 | 46,702 | | THEFT \$100 TO UNDER \$1,500 | CR 7-104 | 1 1137 | 3569 | 46,602 | |
| THEFT \$100 TO UNDER \$1,500 | CR 7-104 | 1F1137 | 3572 | 300 | | THEFT \$100 TO UNDER \$1,500 | CR 7-104 | 1F1137 | 3572 | 299 | |
| Total | | | | 46,957 | | Total | | | | 46,856 | |

| FY - # Matters with Charge - Theft \$100 - \$1,500 | | | | | | | | CY - # Matters with Charge - Theft \$100 - \$1,500 | | | | | | | |
|--|------------|--------------|--------------|--------------|---------------|--------------|---------------|--|--------------|--------------|--------------|---------------|---------------|------------|---------------|
| sectionNumber | FY20 | FY21 | FY22 | FY23 | FY24 | FY25 | Total | sectionNumber | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | Total |
| 3569 | 533 | 9,573 | 8,898 | 9,450 | 11,508 | 6,740 | 46,702 | 3569 | 5,481 | 8,992 | 9,065 | 10,177 | 12,581 | 306 | 46,602 |
| 3572 | 11 | 83 | 40 | 53 | 76 | 37 | 300 | 3572 | 65 | 44 | 47 | 65 | 75 | 3 | 299 |
| Total | 544 | 9,646 | 8,929 | 9,494 | 11,571 | 6,773 | 46,957 | Total | 5,541 | 9,026 | 9,105 | 10,231 | 12,644 | 309 | 46,856 |

*Adjusted to remove ineligible matters and matters where client retained private counsel

As illustrated in the charts above, OPD defends an average of 10,251.5 theft-over \$100, but less than \$1,500, charges per calendar year.² Extending the statute of limitations period for any of these theft provisions by an additional year could result in uncharged, older, thefts being charged and would significantly increase OPD personnel workloads with no added deterrent effect.

Additionally, increasing penalties does not deter crime. The swiftness of and certainty of being caught deters crime. By making the crime of stealing mail or packages a felony, it will not prevent these crimes from happening but will only exacerbate all of the issues connected with felony convictions.³

Moreover, House Bill 64, House Bill 126, House Bill 135, House Bill 143, House Bill 177, and House Bill 210, all create new felonies. Changing the classification of crimes from misdemeanors to felonies does not prevent crime and does not improve public safety. Creating more felonies only increases the collateral consequences to convicted people, which results in increasing the possibility of recidivism and further diminishing public safety in the communities.

Collateral consequences are legal restrictions that disqualify people convicted of crimes from accessing certain needs and benefits available to other citizens. Many of the collateral consequences experienced by people with felony convictions involve their very basic needs including employment, housing and public food benefits. Without the possibility of stable housing and income to provide for food and

² Please note the data for 2020 is not complete. OPD rolled out its eDefender case management system in May of that year and, unfortunately, the charge data did not migrate to our new system from Prolaw. The remainder of the data is valid through 1/10/25. We derived the average annual number from adding CY 2021 - 2024 data and dividing by 4 (i.e. 9,026 + 9,105 + 10,231 + 12,644 = 41,006/4 = 10,251.5).

³ See, e.g., U.S. Dept. of Justice, National Institute of Justice: Five Things About Deterrence (May 2016) available online at <https://www.ojp.gov/pdffiles1/nij/247350.pdf>.

other necessities, people are not safe and communities are not safe. When people do not have what they need the possibility of crime dramatically increases.

Felonies are the highest level of crime. As such, people with felony convictions face increased challenges in gaining employment. Eighty-seven percent of employers conduct background checks. Most employers do not hire people with felony convictions and/or who have served time in prison. Sixty percent of incarcerated people remain unemployed one year after their release. This inability to gain employment desperately impacts a person's quality of life and ability to establish a livelihood without committing crime.

Similarly, without employment, a person re-entering society cannot provide him or herself housing if they have no income to pay for it. At the same time, people with felony convictions are unable to access public housing and housing voucher programs. Most, if not all, government housing disqualifies applicants with felony convictions. Furthermore, families that live in public housing or have housing through a government voucher, are often not allowed to have family members with felony convictions live with them. Additionally, most landlords often do background checks and do not rent to people with criminal backgrounds and specifically felony charges. This means that a person with a felony conviction not only faces significant barriers accessing housing but is most likely unable to access affordable housing because of their conviction. They could also be prohibited from reunifying with their families if their family lives in any form of public housing.

Lastly, people with felony convictions are excluded from participating in food supplement programs in Maryland. With the prices of food on the rise, limited income and no access to food supplement programs, the options for a convicted felon to survive and meet their basic needs without reoffending are little to none.

Theft is often a crime of necessity or at the least a crime rooted in lack mainly lack of resources and lack of opportunity. Creating situations that further aggravate the needs of people who are already under- resourced and underserved will not decrease crime in general or the theft of mail and packages specifically but may decrease public safety by further disadvantaging already marginalized groups.

In short, this bill is ineffective, inefficient, and harmful. Maryland State prosecutors are already timely and efficiently charging thousands of people with theft annually. Adding new theft crimes to the Code, converting misdemeanors to felonies, or extending the statute of limitations for existing theft prosecutions will not solve the problem the Sponsor seeks to address. Notwithstanding our reservations about these bills, we remain ready to work with Delegate Conaway on legislation to address his concerns about so-called "Porch Piracy" and other forms of mail theft.

For these reasons, the Maryland Office of the Public Defender urges this Committee to issue an unfavorable report on House Bills 14, 64, 79, 109, 126, 135, 143, 177, 210, 269, and 280.

**Submitted by: Maryland Office of the Public Defender, Government Relations Division.
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