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OPPOSITION TO PENDING LEGISLATION

TO: The Honorable J. Sandy Bartlett, Chair, Judiciary Committee
 FROM: Hannibal G. Williams II Kemerer, Chief of Staff, Office of Public Defender
 RE: HB 757 – Criminal Law – Theft of Mail and Packages and Victim Notification
 HB 767 – Criminal Law – Theft and Opening of Mail Packages
 HB 782 – Criminal Law – Taking and Breaking Open Letters – Penalty
 HB 786 – Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2026)
 HG 787 – Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2026)
 HB 788 – Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2026)
 HB 792 – Criminal Law – Theft – Mail and Packages (Porch Piracy Act of 2026)
 HB 760 – Criminal Law – Misdemeanor Theft – Statute of Limitations
 DATE: February 17, 2026

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 mail theft. Our opposition is rooted in the fact that current federal law¹ and Maryland law already criminalize theft. 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.

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)

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.*

(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)

One of the above bills, HB 760, would extend from 2 to 3 years the statute of limitations for prosecuting a theft of at least \$100, but less than \$1,500 (pursuant to Section 7-104(g)(2)). 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

Fiscal Year

FY - # Matters with Charge - Theft \$100 - \$1,500				
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	1F1137	3572	300
Total				46,957

FY - # Matters with Charge - Theft \$100 - \$1,500							
sectionNumber	FY20	FY21	FY22	FY23	FY24	FY25	Total
3569	533	9,573	8,898	9,450	11,508	6,740	46,702
3572	11	83	40	53	76	37	300
Total	544	9,646	8,929	9,494	11,571	6,773	46,957

Calendar Year

CY - # Matters with Charge - Theft \$100 - \$1,500					
Charge Description	sectionCode	section Name	sectionNumber	# Cases Per Client Adjusted*	
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	299	
Total				46,856	

CY - # Matters with Charge - Theft \$100 - \$1,500							
sectionNumber	2020	2021	2022	2023	2024	2025	Total
3569	5,481	8,992	9,065	10,177	12,581	306	46,602
3572	65	44	47	65	75	3	299
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 generally 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 757, House Bill , House Bill 767, House Bill 786, House Bill 787 (creating a new mandatory minimum of 6 months *and* a statutory maximum of 3 years for a third conviction), House Bill 788, and HB 792 all create new theft crimes—the vast majority of them felonies.⁴ 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 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

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, our legacy provider. 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.pd>.

⁴ It bears noting that OPD is not opposing HB 749 or HB 793, legislation introduced by Del. Conaway to require prosecuting attorneys of property thefts with a value less than \$1,500 to notify the victim or the victim's representative about each court proceeding, the right to submit a victim impact statement, any posttrial court proceedings, any appeal, and any sentence review related to the case. Such notification appears consistent with recent Supreme Court precedent. See *Syed v. Lee*, 488 Md. 537 (2024). Similarly, OPD is not opposing HB 782, Del. Conaway's legislation to increase from \$15 to \$500 the penalty for violating the prohibition against taking and breaking open a letter addressed to another. While we question the efficacy of increasing the fine in this way, we recognize that it does not undermine Marylanders' liberty interests.

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 mainly in a 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 Bill 757, House Bill 767. House Bill 786, House Bill 787, House Bill 788, House Bill 792, and House Bill 760. Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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