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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: House Bill 692 – Mail and Package Theft (Porch Piracy Act)
 DATE: February 17, 2026

The Maryland Office of the Public Defender respectfully requests that the Judiciary Committee issue an unfavorable report on House Bill 692, Del. Toles’ bill creating new misdemeanors and felonies for mail-related crimes. 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)
(g)(2)(i)(1)	at least \$100 but less than \$1,500	Misdemeanor	upon first conviction, 6 months imprisonment and/or

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.*

			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)

House Bill 692 would repeal current law governing opening another’s mail that carries a period of imprisonment for 6 days and a fine of \$15. In its stead, HB 692 creates a new misdemeanor that subjects those who knowingly open another’s mail to 1 month of imprisonment and a penalty of \$1,000, or both. **That’s a five-time increase in the number of days of imprisonment (30/6=5) and roughly 67 times the existing statutory cap on fees (\$1,000/\$15=66.6667).** Moreover, HB 692 creates a new crime in proposed Section 3-905.1 for those who purloin mail utilizing an “arrow key” which is “a key designed exclusively for allowing an employee of the U.S. Postal Service or a common carrier for delivery service to access a mailbox or other depository for storing mail.” Using an arrow key to purloin one or more items of mail under new section 3-905.1(b)(2) will result in a felony, imprisonment for up to 5 years, and a fine not exceeding \$5,000, or both. *See* Proposed § 3-905.1(d)(2). Indeed, under the legislation, mere possession of an arrow key with intent to steal mail carries the potential for a felony conviction, imprisonment for up to 3 years, and a fine not to exceed \$3,000, or both. *See* Proposed § 3-905.1(d)(3). Finally, simple mail theft, without an arrow key, constitutes a misdemeanor subject to a period of imprisonment of up to 2 years, a fine of up to \$1,000, or both. *See* Proposed § 3-905.1(d)(1).

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 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 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 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

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.pdf>.

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 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 charging thousands of people with theft annually. Adding new theft crimes to the Code or converting misdemeanors to felonies will not solve the problem the Sponsor seeks to address. Notwithstanding our reservations about this bill, OPD remains ready to work with Delegate Toles on legislation to address her concerns about "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 692. Submitted by: Maryland Office of the Public Defender, Government Relations Division.

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