

# SENATE BILL 385

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CF HB 446

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By: **Senator Cassilly**

Introduced and read first time: January 15, 2021

Assigned to: Judicial Proceedings

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 23, 2021

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Organized Retail Theft**

3 FOR the purpose of providing that multiple thefts committed by the same person in  
4 multiple counties under one scheme or continuing course of conduct may be  
5 aggregated and prosecuted in a certain county; applying certain penalties; repealing  
6 a certain provision of law prohibiting a court from imposing certain penalties under  
7 certain circumstances; altering a certain reference to the maximum value of certain  
8 property or services applicable to misdemeanor theft; requiring a court to make a  
9 finding as to whether a certain crime is organized retail theft under certain  
10 circumstances; providing that the State has a certain burden of proving that a  
11 certain crime is organized retail theft; requiring that a certain finding become part  
12 of the court record for certain purposes under certain circumstances; making  
13 clarifying changes; repealing an improper reference; defining a certain term; and  
14 generally relating to organized retail theft.

15 BY repealing and reenacting, with amendments,  
16 Article – Criminal Law  
17 Section 7–103(f)  
18 Annotated Code of Maryland  
19 (2012 Replacement Volume and 2020 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Article – Criminal Procedure  
22 Section 2–203  
23 Annotated Code of Maryland

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### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (2018 Replacement Volume and 2020 Supplement)

2 BY adding to  
3 Article – Criminal Procedure  
4 Section 6–235  
5 Annotated Code of Maryland  
6 (2018 Replacement Volume and 2020 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
8 That the Laws of Maryland read as follows:

9 **Article – Criminal Law**

10 7–103.

11 (f) **(1)** When theft is committed in violation of this part under one scheme or  
12 continuing course of conduct, whether from the same or several sources:

13 **[(1)] (I)** the conduct may be considered as one crime; and

14 **[(2)] (II)** the value of the property or services may be aggregated in  
15 determining whether the theft is a felony or a misdemeanor.

16 **(2) MULTIPLE THEFTS COMMITTED BY THE SAME PERSON IN**  
17 **MULTIPLE COUNTIES UNDER ONE SCHEME OR CONTINUING COURSE OF CONDUCT**  
18 **MAY BE AGGREGATED AND PROSECUTED IN ANY COUNTY IN WHICH ANY ONE OF THE**  
19 **THEFTS OCCURRED.**

20 **Article – Criminal Procedure**

21 2–203.

22 (a) A police officer without a warrant may arrest a person if the police officer has  
23 probable cause to believe:

24 (1) that the person has committed a crime listed in subsection (b) of this  
25 section; and

26 (2) that unless the person is arrested immediately, the person:

27 (i) may not be apprehended;

28 (ii) may cause physical injury or property damage to another; or

29 (iii) may tamper with, dispose of, or destroy evidence.

- 1 (b) The crimes referred to in subsection (a)(1) of this section are:
- 2 (1) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law  
3 Article;
- 4 (2) malicious burning under § 6–104 or § 6–105 of the Criminal Law Article  
5 or an attempt to commit the crime;
- 6 (3) malicious mischief under § 6–301 of the Criminal Law Article or an  
7 attempt to commit the crime;
- 8 (4) a theft crime where the value of the property or services stolen is less  
9 than [\$1,000] **\$1,500** under § 7–104 [or § 7–105] of the Criminal Law Article, **INCLUDING**  
10 **§ 7–104(G)(4) OF THE CRIMINAL LAW ARTICLE**, or an attempt to commit the crime;
- 11 (5) the crime of giving or causing to be given a false alarm of fire under §  
12 9–604 of the Criminal Law Article;
- 13 (6) indecent exposure under § 11–107 of the Criminal Law Article;
- 14 (7) a crime that relates to controlled dangerous substances under Title 5 of  
15 the Criminal Law Article or an attempt to commit the crime;
- 16 (8) the wearing, carrying, or transporting of a handgun under § 4–203 or §  
17 4–204 of the Criminal Law Article;
- 18 (9) carrying or wearing a concealed weapon under § 4–101 of the Criminal  
19 Law Article;
- 20 (10) prostitution and related crimes under Title 11, Subtitle 3 of the  
21 Criminal Law Article; and
- 22 (11) violation of a condition of pretrial or posttrial release under § 5–213.1  
23 of this article.

24 **6–235.**

25 (A) IN THIS SECTION, “ORGANIZED RETAIL THEFT” MEANS THE  
26 COMMISSION, EITHER ALONE OR WITH ONE OR MORE OTHER PERSONS, OF A SERIES  
27 OF THEFTS OF RETAIL MERCHANDISE FROM ONE OR MORE RETAIL MERCHANTS  
28 WITH THE INTENT TO:

- 29 (1) RETURN THE MERCHANDISE TO THE MERCHANT FOR VALUE; OR
- 30 (2) RESELL, TRADE, OR BARTER THE MERCHANDISE FOR VALUE.

1           **(B) (1) IF A DEFENDANT IS CONVICTED OF OR RECEIVES A PROBATION**  
2 **BEFORE JUDGMENT DISPOSITION FOR THEFT UNDER § 7-104 OF THE CRIMINAL**  
3 **LAW ARTICLE, ON REQUEST OF THE STATE'S ATTORNEY THE COURT SHALL MAKE A**  
4 **FINDING OF FACT BASED ON EVIDENCE PRODUCED AT TRIAL AS TO WHETHER THE**  
5 **CRIME IS ORGANIZED RETAIL THEFT.**

6           **(2) THE STATE HAS THE BURDEN OF PROVING BY A PREPONDERANCE**  
7 **OF THE EVIDENCE THAT THE CRIME IS ORGANIZED RETAIL THEFT.**

8           **(C) IF THE COURT FINDS THAT THE CRIME IS ORGANIZED RETAIL THEFT**  
9 **UNDER SUBSECTION (B) OF THIS SECTION, THAT FINDING SHALL BECOME PART OF**  
10 **THE COURT RECORD FOR PURPOSES OF REPORTING TO THE CRIMINAL JUSTICE**  
11 **INFORMATION SYSTEM CENTRAL REPOSITORY UNDER § 10-215 OF THIS ARTICLE.**

12           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 2021.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.