

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 373

(Senator Waldstreicher)

Judicial Proceedings

Judiciary

Criminal Law - Theft - Mail and Arrow Key

This bill prohibits a person from intentionally breaking open an item of mail (rather than taking and breaking open a letter as under current law) that is not addressed to the person without permission from the person to whom the mail is addressed or the personal representative of the addressee's estate. Violators are subject to an existing statutory penalty. The bill also establishes graduated penalties for violations of the general theft statute involving the theft of mail (mail theft) based on the number of items of mail stolen. Additionally, the bill prohibits a person from committing mail theft using an arrow key. Violators are guilty of a felony punishable by imprisonment for up to five years and/or a \$5,000 maximum fine. The bill also prohibits a person from possessing an arrow key with the intent to use or allow the use of the arrow key to commit mail theft. Violators are guilty of a felony punishable by imprisonment for up to three years and/or a maximum fine of \$3,000. A sentence for a conviction under the bill may be separate from and consecutive to or concurrent with a sentence for any other crime based on the acts establishing the violation.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances or operations, as discussed below.

Local Effect: The bill is not expected to materially affect local government finances or operations.

Small Business Effect: None.

Analysis

Bill Summary: This bill prohibits a person from intentionally breaking open an item of “mail” (rather than taking and breaking a letter as under current law) that is not addressed to the person without permission from the person to whom the mail is addressed or the personal representative of the addressee’s estate. Violators are guilty of a misdemeanor and subject to an existing statutory penalty of imprisonment for six days and a \$15 fine. “Mail” means an item that has been or is intended to be delivered by use of a common carrier or delivery service to a person whose address appears on the item including an addressed letter, postal card, or package. An “arrow key” is an instrument that allows a mail carrier to access a mailbox or other depository for storing mail.

Exhibit 1 lists the penalties for a violation of § 7-104 of the Criminal Law Article (general theft) involving mail based on the number of items of mail stolen and for mail theft involving an arrow key.

Exhibit 1 Penalties for Mail Theft Under the Bill

Mail Theft and Use of an Arrow Key to Commit Mail Theft

Penalties

Theft of at least 1 but less than 16 items of mail	Misdemeanor – imprisonment for up to 6 months and/or a maximum fine of \$1,000
Theft of 16 or more items of mail	Felony – imprisonment for up to 2 years and/or a maximum fine of \$2,000
Theft of at least 1 item of mail using an arrow key	Felony – imprisonment for up to 5 years and/or a maximum fine of \$5,000

Source: Department of Legislative Services

Current Law:

Opening a Letter without Permission

Under the Criminal Law Article, a person is prohibited 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 2**.

Exhibit 2 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 a fine and/or a maximum penalty of five years imprisonment.

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 a fine and/or (1) if the value of the stolen property does not exceed \$1,000, a maximum penalty of one year imprisonment or (2) if the value of stolen property is more than \$1,000, a maximum penalty of three years imprisonment.

State Fiscal Effect: The Office of the Public Defender (OPD) advises that the bill increases the workload in existing cases and may result in new cases. OPD estimates the increase is equivalent to three additional attorneys and one secretary at a cost of \$355,696 in fiscal 2025 and increasing to \$486,270 by fiscal 2029. The Department of Legislative Services advises that the bill is not anticipated to result in additional cases or clients for OPD. Moreover, while the bill *may* result in an increased level of effort in certain cases where a more stringent penalty may apply under the bill, the magnitude of any such increase is expected to be minimal. Thus, the effect on OPD caseloads is likely absorbable within existing budgeted resources.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 318 (Delegate Solomon, *et al.*) - Judiciary.

Information Source(s): Baltimore, Frederick, and Montgomery counties; 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 Public Safety and Correctional Services; Department of Legislative Services

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Analysis by: Amber R. Gundlach

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