

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 177
Judiciary

(Delegate Conaway)

Criminal Law - Theft and Opening of Mail and Packages

This bill prohibits the knowing or willful theft of “mail or package,” which is defined as an item delivered or left to be collected by the United States Postal Service (USPS) or a delivery service company that delivers tangible personal property. A person who violates this prohibition is guilty of a felony and on conviction is subject to imprisonment for up to five years. If a person is convicted under § 3-905 of the Criminal Law Article (opening a letter without permission) or of the mail theft offense established by the bill for an act that involved a letter or package delivered or intended to be delivered by USPS, the court must promptly notify the United States Postmaster General of the conviction, and the defendant must pay any administrative costs related to this notification.

Fiscal Summary

State Effect: As discussed below, potential significant expenditures for the Judiciary in FY 2026 only (\$236,100 under one scenario) for development of a notification system. Minimal increase in general fund expenditures due to the bill’s penalty provision. General fund fine revenues decrease minimally.

Local Effect: Minimal decrease in local expenditures due to the bill’s penalty provision, as discussed below. Revenues are not materially affected.

Small Business Effect: None.

Analysis

Current Law:

Opening a Letter without Permission

Section 3-905 of the Criminal Law Article prohibits a person 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 1**.

Exhibit 1 Penalties for General Theft

Value of Property and/or Services

Maximum Penalty

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

Value of Property and/or Services

Maximum Penalty

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 imprisonment for up to five years and/or a \$250,000 maximum fine.

It is also a federal crime to steal any property used by USPS, as specified under 18 USC § 1707. On conviction, a violator is subject to (1) if the value of the stolen property does not exceed \$1,000, imprisonment for up to one year and/or a maximum fine of \$100,000 or (2) if the value of stolen property is more than \$1,000, imprisonment for up to three years and/or a maximum fine of \$250,000.

State Revenues: General fund revenues decrease minimally from fines imposed in District Court cases (under the general theft statute) that shift to the circuit courts under the bill.

State Expenditures:

Judiciary

The Judiciary advises that compliance with the bill’s notification requirements necessitates the development of an automated notification interface with USPS, at a cost of \$236,088 in fiscal 2026 only. While the bill requires a convicted defendant to pay “administrative costs” associated with the court’s notification of USPS, it is unclear how the Judiciary would develop an administrative cost that could recoup the cost of an automated system and how long it would take the Judiciary to recoup that cost. The Department of Legislative Services advises that should a simpler notification system be developed (*e.g.*, manual flagging of cases and notification via email or certified mail to USPS), costs are significantly reduced and likely completely offset by administrative costs paid by defendants.

Department of Public Safety and Correctional Services

General fund expenditures for the Department of Public Safety and Correctional Services (DPSCS) increase minimally as a result of the bill’s incarceration penalty due to people being committed to State correctional facilities rather than local facilities. This estimate assumes (1) most mail and package thefts are not reported to law enforcement and are not represented in the offense data in **Exhibit 2**; (2) mail and package thefts represent a small portion of the guilty dispositions listed in Exhibit 2; (3) individuals who received probation for theft in **Exhibit 3** are unlikely to be sentenced to incarceration under the bill; (4) the majority of stolen mail or packages have a value of less than \$1,500; and (5) as a result of plea bargaining, individuals subject to the bill’s provisions are more likely to be sentenced under the general theft statute than under the bill.

Exhibit 2 contains information on the number of violations and guilty dispositions in the District Court and the circuit courts over the last two fiscal years under the general theft statute for specific offenses. Information is not available on how many of these violations and guilty dispositions involved the theft of mail or packages. In addition, the Judiciary advises that during fiscal 2023, there were 18 violations and 0 convictions for opening a letter without permission in the District Court. There were 20 violations and 1 guilty disposition for this offense in the District Court during fiscal 2024.

Exhibit 2
Violations and Guilty Dispositions for Offenses under the General Theft Statute for Fiscal 2023 and 2024

	Fiscal 2023		Fiscal 2024	
	<u>Violations</u>	<u>Guilty Dispositions</u>	<u>Violations</u>	<u>Guilty Dispositions</u>
<u>District Court Offenses</u>				
Theft less than \$100	7,399	692	9,324	775
Theft at least \$100 but less than \$1,500	12,787	1,235	14,532	1,492
Theft at least \$1,500 but less than \$25,000	5,430	204	5,436	236
Theft at least \$25,000 but less than \$100,000	876	11	973	10
Theft \$100,000 or more	62	0	92	0

	Fiscal 2023		Fiscal 2024	
	<u>Violations</u>	<u>Guilty Dispositions</u>	<u>Violations</u>	<u>Guilty Dispositions</u>
<u>Circuit Court Offenses</u>				
Theft less than \$100	1,104	96	1,130	97
Theft at least \$100 but less than \$1,500	3,094	503	2,988	503
Theft at least \$1,500 but less than \$25,000	2,116	226	1,852	268
Theft at least \$25,000 but less than \$100,000	403	38	489	49
Theft \$100,000 or more	40	13	50	6

Source: Maryland Judiciary; Department of Legislative Services

DPSCS advises that the bill has a potential impact on incarceration expenditures. Exhibit 3 displays the number of individuals referred to the Division of Parole and Probation (DPP) within DPSCS for theft less than \$100 and theft of at least \$100, but less than \$1,500. Data is not available on how many of the DPP cases listed below involve theft of mail or a package. Regardless, DPSCS advises that if a portion of these individuals are incarcerated in State facilities under the bill it would have an effect on the Division of Correction within DPSCS. As noted above, this analysis assumes that mail or package thefts represent a small portion of the offenses listed in Exhibit 2, individuals sentenced to probation under the general theft statute are unlikely to be sentenced to incarceration under the bill, and individuals subject to the bill’s provisions are more likely to be sentenced under the general theft statute (which is still an available option).

Exhibit 3
Individuals Referred to the Division of Parole and Probation for Violations of Specified Theft Offenses in Fiscal 2024

<u>Offense</u>	<u>Number of Individuals Referred to the Division of Parole and Probation</u>
Theft less than \$100	406
Theft at least \$100 but less than \$1,500	1,268

Source: Department of Public Safety and Correctional Services; Department of Legislative Services

Thus, general fund expenditures for DPSCS increase minimally as a result of the bill's incarceration penalty due to people being committed to State correctional facilities rather than local facilities as a result of the increased penalty provision.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per incarcerated individual, including overhead, is estimated at \$5,339 per month. Persons serving a sentence of one year or less in a jurisdiction other than Baltimore City are sentenced to local detention facilities. For persons sentenced to a term of between 12 and 18 months, the sentencing judge has the discretion to order that the sentence be served at a local facility or a State correctional facility. The State provides assistance to the counties for locally sentenced incarcerated individuals and for (1) incarcerated individuals who are sentenced to and awaiting transfer to the State correctional system; (2) sentenced incarcerated individuals confined in a local detention center between 12 and 18 months; and (3) incarcerated individuals who have been sentenced to the custody of the State but are confined in or who receive reentry or other prerelease programming and services from a local facility.

The State does not pay for pretrial detention time in a local correctional facility. Persons sentenced in Baltimore City are generally incarcerated in State correctional facilities. The Baltimore Pretrial Complex, a State-operated facility, is used primarily for pretrial detentions.

Office of the Public Defender

The Office of the Public Defender (OPD) advises that the bill will result in new cases for OPD requiring the equivalent of one attorney statewide. However, the bill creates a new felony offense for which individuals are likely already charged under the existing general theft statute. While the bill may result in an increased effort for existing OPD clients who are now charged with a felony offense under the bill (rather than only misdemeanor general theft offenses), OPD can likely accommodate any increased level effort within existing budgeted resources.

Local Revenues: Local expenditures are not anticipated to be materially affected due to administrative costs collected for violations of the bill's proposed crime and § 3-905 of the Criminal Law Article.

Local Expenditures: Local expenditures decrease minimally due to individuals shifting from local detention facilities to State correctional facilities.

Counties pay the full cost of incarceration for people in their facilities for the first 12 months of the sentence. Per diem operating costs of local detention facilities have ranged from approximately \$140 to \$350 per incarcerated individual in recent years.

Additional Information

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

Designated Cross File: None.

Information Source(s): Department of Public Safety and Correctional Services; Judiciary (Administrative Office of the Courts); Kent and Montgomery counties; Maryland Association of Counties; Maryland State Commission on Criminal Sentencing Policy; Office of the Public Defender; Department of Legislative Services

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