

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1137
Judiciary

(Delegate Dumais)

**Crimes - Robbery, Burglary, or Theft of Property - Controlled Dangerous
Substances**

This bill clarifies that the crime of robbery includes robbing or attempting to rob another of a drug, a substance, or an immediate precursor listed as a controlled dangerous substance in Schedules II through V. The bill further clarifies that the crime of theft includes theft of a drug, a substance, or an immediate precursor listed as a controlled dangerous substance in Schedules II through V.

The bill establishes the offense of breaking and entering the storehouse of another with the intent to steal, take, or carry away a drug, a substance, or an immediate precursor listed as a controlled dangerous substance in Schedules II through V. A violator is guilty of felony second degree burglary and is subject to up to 20 years imprisonment and/or a fine of \$10,000.

Fiscal Summary

State Effect: Minimal increase in State expenditures due to the bill's penalty provision for the offense of felony second degree burglary. Enforcement can be handled with existing resources. Revenues are not materially affected.

Local Effect: Minimal increase in local revenues due to fines from the offense of second degree burglary. No effect on expenditures as enforcement can be handled with existing resources.

Small Business Effect: None.

Analysis

Current Law: Controlled dangerous substances are listed on one of five schedules (Schedules I through V) set forth in statute depending on their potential for abuse and acceptance for medical use. The definition of property as it pertains to robbery, burglary, and theft does not include controlled dangerous substances listed on any of the five schedules.

Robbery – A person may not commit or attempt to commit a robbery. A violator is guilty of a felony punishable by up to 15 years imprisonment.

A person may not commit or attempt to commit a robbery with a dangerous weapon or by displaying a written instrument claiming that the person has possession of a dangerous weapon. A violator is guilty of a felony punishable by up to 20 years imprisonment.

Second Degree Burglary – A person may not break and enter a storehouse of another with the intent to commit theft, a crime of violence, or second degree arson. A violator is guilty of a felony punishable by up to 15 years imprisonment.

A person may not break and enter the storehouse of another with the intent to steal, take, or carry away a firearm. A violator is guilty of a felony punishable by up to 20 years imprisonment and/or a \$10,000 fine.

Theft – A person may not, under specified circumstances (1) willfully or knowingly obtain or exert 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; or (4) obtain control over property knowing that the property was lost, mislaid, or was delivered under a mistake as to the identity of the recipient or nature or amount of the property. 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 listed below:

Value of Property and/or Services

Maximum Penalty

Less than \$100

Misdemeanor – 90 days imprisonment and/or a \$500 fine

Less than \$1,000

Misdemeanor – 18 months imprisonment and/or a \$500 fine

Less than \$1,000 (two or more prior convictions)

Misdemeanor – 5 years imprisonment and/or a \$5,000 fine

Between \$1,000 and \$10,000

Felony – 10 years imprisonment and/or \$10,000 fine

Between \$10,000 and \$100,000

Felony – 15 years imprisonment and/or \$15,000 fine

\$100,000 or more

Felony – 25 years imprisonment and/or \$25,000 fine

State Revenues: No material effect on general fund revenues from fines imposed in District Court cases, since the bill clarifies that controlled dangerous substances in Schedules II through V are property as it pertains to misdemeanor theft.

State Expenditures: General fund expenditures increase minimally as a result of the bill’s incarceration penalties, as people convicted of a second degree burglary where the underlying intent was to steal, take, or carry away a drug, a substance, or an immediate precursor listed as a controlled dangerous substance in Schedules II through V are now subject to up to 20 years imprisonment instead of up to 15 years. The number of people convicted of this proposed crime is expected to be minimal.

Persons serving a sentence longer than 18 months are incarcerated in State correctional facilities. Currently, the average total cost per inmate, including overhead, is estimated at \$3,100 per month. This bill alone, however, should not create the need for additional beds, personnel, or facilities. Excluding overhead, the average cost of housing a new State inmate (including variable health care costs) is about \$735 per month. Excluding all health care, the average variable costs total \$185 per month.

Local Revenues: Revenues increase minimally as a result of the bill’s monetary penalty provision from cases heard in the circuit courts.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland State Commission on Criminal Sentencing Policy, Governor's Office of Crime Control and Prevention, Judiciary (Administrative Office of the Courts), Department of State Police, Office of the Public Defender, Department of Public Safety and Correctional Services, State's Attorneys' Association, Department of Legislative Services

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ncs/kdm

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