

SENATE BILL 598

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0lr3135
CF HB 830

By: **Senators Cassilly and Ready**

Introduced and read first time: January 31, 2020

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 9, 2020

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – 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; ~~altering a certain provision relating~~
6 ~~to sentencing of a person who has four or more prior theft convictions and is convicted~~
7 ~~of theft of property or services with a certain value to prohibit a person who has three~~
8 ~~or more prior theft convictions from committing theft of property or services with a~~
9 ~~certain value;~~ applying certain penalties; repealing a certain provision of law
10 prohibiting a court from imposing certain penalties under certain circumstances;
11 altering a certain reference to the maximum value of certain property or services
12 applicable to misdemeanor theft; requiring a court to make a finding as to whether
13 a certain crime is organized retail theft under certain circumstances; providing that
14 the State has a certain burden of proving that a certain crime is organized retail
15 theft; requiring that a certain finding become part of the court record for certain
16 purposes under certain circumstances; making clarifying changes; repealing an
17 improper reference; defining a certain term; and generally relating to organized
18 retail theft.

19 BY repealing and reenacting, with amendments,
20 Article – Criminal Law
21 Section 7–103(f) ~~and 7–104(g)~~
22 Annotated Code of Maryland
23 (2012 Replacement Volume and 2019 Supplement)

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.



BY repealing and reenacting, with amendments,
Article – Criminal Procedure
Section 2–203
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY adding to
Article – Criminal Procedure
Section 6–235
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

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

Article – Criminal Law

7–103.

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

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

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

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

~~7–104.~~

~~(g) (1) A person convicted of theft of property or services with a value of:~~

~~(i) at least \$1,500 but less than \$25,000 is guilty of a felony and:~~

~~1. is subject to imprisonment not exceeding 5 years or a fine not exceeding \$10,000 or both; and~~

~~2. shall restore the property taken to the owner or pay the owner the value of the property or services;~~

~~(ii) at least \$25,000 but less than \$100,000 is guilty of a felony and:~~

~~1 1. is subject to imprisonment not exceeding 10 years or a fine~~
~~2 not exceeding \$15,000 or both; and~~

~~3 2. shall restore the property taken to the owner or pay the~~
~~4 owner the value of the property or services; or~~

~~5 (iii) \$100,000 or more is guilty of a felony and:~~

~~6 1. is subject to imprisonment not exceeding 20 years or a fine~~
~~7 not exceeding \$25,000 or both; and~~

~~8 2. shall restore the property taken to the owner or pay the~~
~~9 owner the value of the property or services.~~

~~10 (2) Except as provided in paragraph (3) of this subsection, a person~~
~~11 convicted of theft of property or services with a value of at least \$100 but less than \$1,500,~~
~~12 is guilty of a misdemeanor and:~~

~~13 (i) is subject to:~~

~~14 1. for a first conviction, imprisonment not exceeding 6~~
~~15 months or a fine not exceeding \$500 or both; and~~

~~16 2. for a second or subsequent conviction, imprisonment not~~
~~17 exceeding 1 year or a fine not exceeding \$500 or both; and~~

~~18 (ii) shall restore the property taken to the owner or pay the owner~~
~~19 the value of the property or services.~~

~~20 (3) A person convicted of theft of property or services with a value of less~~
~~21 than \$100 is guilty of a misdemeanor and:~~

~~22 (i) is subject to imprisonment not exceeding 90 days or a fine not~~
~~23 exceeding \$500 or both; and~~

~~24 (ii) shall restore the property taken to the owner or pay the owner~~
~~25 the value of the property or services.~~

~~26 (4) (I) [Subject to paragraph (5) of this subsection, a] A person who has~~
~~27 [four] THREE or more prior convictions under this subtitle [and who is convicted of] MAY~~
~~28 NOT COMMIT theft of property or services with a value of less than \$1,500 under paragraph~~
~~29 (2) of this subsection.~~

~~30 (II) A PERSON WHO VIOLATES SUBPARAGRAPH (I) OF THIS~~
~~31 PARAGRAPH is guilty of a misdemeanor and:~~

~~[(i)] 1. is subject to imprisonment not exceeding 5 years or a fine not exceeding \$5,000 or both; and~~

~~[(ii)] 2. shall restore the property taken to the owner or pay the owner the value of the property or services.~~

~~[(5) The court may not impose the penalties under paragraph (4) of this subsection unless the State's Attorney serves notice on the defendant or the defendant's counsel before the acceptance of a plea of guilty or nolo contendere or at least 15 days before trial that:~~

~~(i) the State will seek the penalties under paragraph (4) of this subsection; and~~

~~(ii) lists the alleged prior convictions.]~~

Article – Criminal Procedure

2–203.

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

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

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

(i) may not be apprehended;

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

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

(b) The crimes referred to in subsection (a)(1) of this section are:

(1) manslaughter by vehicle or vessel under § 2–209 of the Criminal Law Article;

(2) malicious burning under § 6–104 or § 6–105 of the Criminal Law Article or an attempt to commit the crime;

(3) malicious mischief under § 6–301 of the Criminal Law Article or an attempt to commit the crime;

(4) a theft crime where the value of the property or services stolen is less than [\$1,000] **\$1,500** under § 7–104 [or § 7–105] of the Criminal Law Article, **INCLUDING § 7–104(G)(4) OF THE CRIMINAL LAW ARTICLE**, or an attempt to commit the crime;

(5) the crime of giving or causing to be given a false alarm of fire under § 9–604 of the Criminal Law Article;

(6) indecent exposure under § 11–107 of the Criminal Law Article;

(7) a crime that relates to controlled dangerous substances under Title 5 of the Criminal Law Article or an attempt to commit the crime;

(8) the wearing, carrying, or transporting of a handgun under § 4–203 or § 4–204 of the Criminal Law Article;

(9) carrying or wearing a concealed weapon under § 4–101 of the Criminal Law Article;

(10) prostitution and related crimes under Title 11, Subtitle 3 of the Criminal Law Article; and

(11) violation of a condition of pretrial or posttrial release under § 5–213.1 of this article.

6–235.

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

(1) RETURN THE MERCHANDISE TO THE MERCHANT FOR VALUE; OR

(2) RESELL, TRADE, OR BARTER THE MERCHANDISE FOR VALUE.

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

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

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

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2020.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.