

Maryland Justice Reinvestment Act of 2016

Senate Bill 1005

Reduces Misdemeanor Theft Penalties & Makes Same Reductions for Other Theft-Related Offenses That Involve Use of Checks, Credit Cards, Receiving Stolen Property, Medical Services, Etc.

51

the

3 (e) A person may not obtain the services of another that are available only for
4 compensation:

5 (1) by deception; or

6 (2) with knowledge that the services are provided without the consent of
7 the person providing them.

8 (f) Under this section, an offender's intention or knowledge that a promise would
9 not be performed may not be established by or inferred solely from the fact that the promise
10 was not performed.

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

12 (i) at least ~~[\$1,000]~~ **\$2,000** but less than ~~[\$10,000]~~ **\$25,000** is
13 guilty of a felony and:

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

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

18 (ii) at least ~~[\$10,000]~~ **\$25,000** but less than \$100,000 is guilty of a
19 felony and:

20 1. is subject to imprisonment not exceeding ~~[15]~~ **10** years or
21 a fine not exceeding \$15,000 or both; and

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

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

25 1. is subject to imprisonment not exceeding ~~[25]~~ **20** years or
26 a fine not exceeding \$25,000 or both; and

27 2. shall restore the property taken to the owner or pay the
28 owner the value of the property or services.

1 (2) Except as provided in [paragraphs (3) and (4)] **PARAGRAPH (3)** of this
2 subsection, a person convicted of theft of property or services with a value of ~~AT LEAST~~
3 ~~\$100 BUT~~ less than ~~[\$1,000]~~ **\$2,000**, is guilty of a misdemeanor and:

4 (i) is subject to imprisonment not exceeding ~~[18]~~ **12** months or a fine
5 not exceeding \$500 or both; and

6 (ii) shall restore the property taken to the owner or pay the owner
7 the value of the property or services.

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

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

12 (ii) shall restore the property taken to the owner or pay the owner
13 the value of the property or services.

14 ~~¶~~(4) Subject to paragraph (5) of this subsection, a person who has ~~two~~ **FOUR**
15 or more prior convictions under this subtitle and who is convicted of theft of property or
16 services with a value of less than ~~\$1,000~~ **\$2,000** under paragraph (2) of this subsection is
17 guilty of a misdemeanor and:

18 (i) is subject to imprisonment not exceeding 5 years or a fine not
19 exceeding \$5,000 or both; and

20 (ii) shall restore the property taken to the owner or pay the owner
21 the value of the property or services.

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

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

28 (ii) lists the alleged prior convictions.†

29 7–108.

30 (a) An indictment, information, warrant, or other charging document for theft
31 under this part, other than for taking a motor vehicle under § 7–105 of this part, is sufficient
32 if it substantially states:

1 “(name of defendant) on (date) in (county) stole (property or services stolen) of (name
2 of victim), having a value of (less than [\$1,000, at least \$1,000 but less than \$10,000, at
3 least \$10,000] **\$2,000, AT LEAST \$2,000 BUT LESS THAN \$25,000, AT LEAST \$25,000**
4 but less than \$100,000, or \$100,000 or more) in violation of § 7–104 of the Criminal Law
5 Article, against the peace, government, and dignity of the State.”

6 (b) An indictment, information, warrant, or other charging document for theft
7 under this part for taking a motor vehicle under § 7–105 of this part is sufficient if it
8 substantially states:

9 “(name of defendant) on (date) in (county) knowingly and willfully took a motor
10 vehicle out of (name of victim)’s lawful custody, control, or use, without the consent of (name
11 of victim), in violation of § 7–105 of the Criminal Law Article, against the peace,
12 government, and dignity of the State.”

13 (c) In a case in the circuit court in which the general form of indictment or
14 information is used to charge a defendant with a crime under this part, the defendant, on
15 timely demand, is entitled to a bill of particulars.

16 (d) Unless specifically charged by the State, theft of property or services with a
17 value of less than \$100 as provided under § 7–104(g)(3) of this subtitle may not be
18 considered a lesser included crime of any other crime.

19 8–106.

20 (a) (1) A person who obtains property or services with a value of at least
21 [\$1,000] **\$2,000** but less than [\$10,000] **\$25,000** by issuing or passing a check in violation
22 of § 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment
23 not exceeding [10] **5** years or a fine not exceeding \$10,000 or both.

24 (2) A person who obtains property or services with a value of at least
25 [\$10,000] **\$25,000** but less than \$100,000 by issuing or passing a check in violation of §
26 8–103 of this subtitle is guilty of a felony and on conviction is subject to imprisonment not
27 exceeding [15] **10** years or a fine not exceeding \$15,000 or both.

28 (3) A person who obtains property or services with a value of \$100,000 or
29 more by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a felony
30 and on conviction is subject to imprisonment not exceeding [25] **20** years or a fine not
31 exceeding \$25,000 or both.

32 (b) A person who obtains property or services by issuing or passing more than one
33 check in violation of § 8–103 of this subtitle is guilty of a felony and on conviction is subject
34 to imprisonment not exceeding [10] **5** years or a fine not exceeding \$10,000 or both if:

35 (1) each check that is issued is for [less than \$1,000] **AT LEAST \$2,000**
36 **BUT LESS THAN \$25,000** and is issued to the same person within a 30–day period; and

1 (2) the cumulative value of the property or services is [~~\$1,000 or more~~] **AT**
2 **LEAST \$2,000 BUT LESS THAN \$25,000.**

3 (c) Except as provided in subsections (b) and (d) of this section, a person who
4 obtains property or services with a value of **AT LEAST \$100 BUT** less than [~~\$1,000~~] **\$2,000**
5 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a
6 misdemeanor and on conviction is subject to imprisonment not exceeding [~~18~~] **12** months
7 or a fine not exceeding \$500 or both.

8 (d) (1) A person who obtains property or services with a value of less than \$100
9 by issuing or passing a check in violation of § 8–103 of this subtitle is guilty of a
10 misdemeanor and on conviction is subject to imprisonment not exceeding 90 days or a fine
11 not exceeding \$500 or both.

12 (2) It is not a defense to the crime of obtaining property or services with a
13 value of less than \$100 by issuing or passing a check in violation of § 8–103 of this subtitle
14 that the value of the property or services at issue is \$100 or more.

15 8–206.

16 (a) A person may not for the purpose of obtaining money, goods, services, or
17 anything of value, and with the intent to defraud another, use:

18 (1) a credit card obtained or retained in violation of § 8–204 or § 8–205 of
19 this subtitle; or

20 (2) a credit card that the person knows is counterfeit.

21 (b) A person may not, with the intent to defraud another, obtain money, goods,
22 services, or anything of value by representing:

23 (1) without the consent of the cardholder, that the person is the holder of a
24 specified credit card; or

25 (2) that the person is the holder of a credit card when the credit card had
26 not been issued.

27 (c) (1) (i) If the value of all money, goods, services, and other things of
28 value obtained in violation of this section is at least [~~\$1,000~~] **\$2,000** but less than [~~\$10,000~~]
29 **\$25,000**, a person who violates this section is guilty of a felony and on conviction is subject
30 to imprisonment not exceeding [~~10~~] **5** years or a fine not exceeding \$10,000 or both.

31 (ii) If the value of all money, goods, services, and other things of
32 value obtained in violation of this section is at least [~~\$10,000~~] **\$25,000** but less than

1 \$100,000, a person who violates this section is guilty of a felony and on conviction is subject
2 to imprisonment not exceeding [15] **10** years or a fine not exceeding \$15,000 or both.

3 (iii) If the value of all money, goods, services, and other things of
4 value obtained in violation of this section is \$100,000 or more, a person who violates this
5 section is guilty of a felony and on conviction is subject to imprisonment not exceeding [25]
6 **20** years or a fine not exceeding \$25,000 or both.

7 (2) Except as provided in paragraph (3) of this subsection, if the value of
8 all money, goods, services, and other things of value obtained in violation of this section is
9 **AT LEAST \$100 BUT** less than [\$1,000] **\$2,000**, a person who violates this section is guilty
10 of a misdemeanor and on conviction is subject to imprisonment not exceeding [18] **12**
11 months or a fine not exceeding \$500 or both.

12 (3) If the value of all money, goods, services, and other things of value
13 obtained in violation of this section [does not exceed] **IS LESS THAN** \$100, a person who
14 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment
15 not exceeding 90 days or a fine not exceeding \$500 or both.

16 8–207.

17 (a) If a person is authorized by an issuer to furnish money, goods, services, or
18 anything of value on presentation of a credit card by the cardholder, the person or an agent
19 or employee of the person may not, with the intent to defraud the issuer or cardholder:

20 (1) furnish money, goods, services, or anything of value on presentation of:

21 (i) a credit card obtained or retained in violation of § 8–204 or §
22 8–205 of this subtitle; or

23 (ii) a credit card that the person knows is counterfeit; or

24 (2) fail to furnish money, goods, services, or anything of value that the
25 person represents in writing to the issuer that the person has furnished.

26 (b) (1) (i) If the value of all money, goods, services, and other things of
27 value furnished or not furnished in violation of this section is at least [\$1,000] **\$2,000** but
28 less than [\$10,000] **\$25,000**, a person who violates this section is guilty of a felony and on
29 conviction is subject to imprisonment not exceeding [10] **5** years or a fine not exceeding
30 \$10,000 or both.

31 (ii) If the value of all money, goods, services, and other things of
32 value furnished or not furnished in violation of this section is at least [\$10,000] **\$25,000**
33 but less than \$100,000, a person who violates this section is guilty of a felony and on
34 conviction is subject to imprisonment not exceeding [15] **10** years or a fine not exceeding
35 \$15,000 or both.

1 (iii) If the value of all money, goods, services, and other things of
2 value furnished or not furnished in violation of this section is \$100,000 or more, a person
3 who violates this section is guilty of a felony and on conviction is subject to imprisonment
4 not exceeding [25] 20 years or a fine not exceeding \$25,000 or both.

5 (2) Except as provided in paragraph (3) of this subsection, if the value of
6 all money, goods, services, and other things of value furnished or not furnished in violation
7 of this section is **AT LEAST \$100 BUT** less than [\$1,000] **\$2,000**, a person who violates this
8 section is guilty of a misdemeanor and on conviction is subject to imprisonment not
9 exceeding [18] 12 months or a fine not exceeding \$500 or both.

10 (3) If the value of all money, goods, services, and other things of value
11 furnished or not furnished in violation of this section [does not exceed] **IS LESS THAN** \$100,
12 a person who violates this section is guilty of a misdemeanor and on conviction is subject
13 to imprisonment not exceeding 90 days or a fine not exceeding \$500 or both.

14 8–209.

15 (a) A person may not receive money, goods, services, or anything of value if the
16 person knows or believes that the money, goods, services, or other thing of value was
17 obtained in violation of § 8–206 of this subtitle.

18 (b) (1) (i) If the value of all money, goods, services, and other things of
19 value obtained in violation of this section is at least [\$1,000] **\$2,000** but less than [\$10,000]
20 **\$25,000**, a person who violates this section is guilty of a felony and on conviction is subject
21 to imprisonment not exceeding [10] 5 years or a fine not exceeding \$10,000 or both.

22 (ii) If the value of all money, goods, services, and other things of
23 value obtained in violation of this section is at least [\$10,000] **\$25,000** but less than
24 \$100,000, a person who violates this section is guilty of a felony and on conviction is subject
25 to imprisonment not exceeding [15] 10 years or a fine not exceeding \$15,000 or both.

26 (iii) If the value of all money, goods, services, and other things of
27 value obtained in violation of this section is \$100,000 or more, a person who violates this
28 section is guilty of a felony and on conviction is subject to imprisonment not exceeding [25]
29 **20** years or a fine not exceeding \$25,000 or both.

30 (2) Except as provided in paragraph (3) of this subsection, if the value of
31 all money, goods, services, and other things of value obtained in violation of this section is
32 **AT LEAST \$100 BUT** less than [\$1,000] **\$2,000**, a person who violates this section is guilty
33 of a misdemeanor and on conviction is subject to imprisonment not exceeding [18] 12
34 months or a fine not exceeding \$500 or both.

35 (3) If the value of all money, goods, services, and other things of value
36 obtained in violation of this section [does not exceed] **IS LESS THAN** \$100, a person who

1 violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment
2 not exceeding 90 days or a fine not exceeding \$500 or both.

3 8–301.

4 (a) (1) In this section the following words have the meanings indicated.

5 (2) “Health care” means care, services, or supplies related to the health of
6 an individual that includes the following:

7 (i) preventative, diagnostic, therapeutic, rehabilitative,
8 maintenance care, palliative care and counseling, service assessment, or procedure:

9 1. with respect to the physical or mental condition or
10 functional status of an individual; or

11 2. that affects the structure or function of the body; and

12 (ii) the sale or dispensing of a drug, device, equipment, or other item
13 in accordance with a prescription.

14 (3) “Health information” means any information, whether oral or recorded
15 in any form or medium, that:

16 (i) is created or received by:

17 1. a health care provider;

18 2. a health care carrier;

19 3. a public health authority;

20 4. an employer;

21 5. a life insurer;

22 6. a school or university; or

23 7. a health care clearinghouse; and

24 (ii) relates to the:

25 1. past, present, or future physical or mental health or
26 condition of an individual;

27 2. provision of health care to an individual; or

1 (1) to avoid identification, apprehension, or prosecution for a crime; or

2 (2) with fraudulent intent to:

3 (i) get a benefit, credit, good, service, or other thing of value;

4 (ii) access health information or health care; or

5 (iii) avoid the payment of debt or other legal obligation.

6 (d) A person may not knowingly, willfully, and with fraudulent intent to obtain a
7 benefit, credit, good, service, or other thing of value or to access health information or health
8 care, use:

9 (1) a re-encoder to place information encoded on the magnetic strip or
10 stripe of a credit card onto the magnetic strip or stripe of a different credit card or use any
11 other electronic medium that allows such a transaction to occur without the consent of the
12 individual authorized to use the credit card from which the personal identifying
13 information or payment device number is being re-encoded; or

14 (2) a skimming device to access, read, scan, obtain, memorize, or store
15 personal identifying information or a payment device number on the magnetic strip or
16 stripe of a credit card without the consent of the individual authorized to use the credit
17 card.

18 (e) A person may not knowingly, willfully, and with fraudulent intent possess,
19 obtain, or help another possess or obtain a re-encoder device or a skimming device for the
20 unauthorized use, sale, or transfer of personal identifying information or a payment device
21 number.

22 (f) A person may not knowingly and willfully claim to represent another person
23 without the knowledge and consent of that person, with the intent to solicit, request, or
24 take any other action to otherwise induce another person to provide personal identifying
25 information or a payment device number.

26 (g) (1) (i) A person who violates this section where the benefit, credit, good,
27 service, health information or health care, or other thing of value that is the subject of
28 subsection (b), (c), or (d) of this section has a value of at least ~~[\$1,000]~~ **\$2,000** but less than
29 ~~[\$10,000]~~ **\$25,000** is guilty of a felony and on conviction is subject to imprisonment not
30 exceeding ~~[10]~~ **5** years or a fine not exceeding \$10,000 or both.

31 (ii) A person who violates this section where the benefit, credit, good,
32 service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section
33 has a value of at least ~~[\$10,000]~~ **\$25,000** but less than \$100,000 is guilty of a felony and
34 on conviction is subject to imprisonment not exceeding ~~[15]~~ **10** years or a fine not exceeding
35 \$15,000 or both.

1 (iii) A person who violates this section where the benefit, credit, good,
2 service, or other thing of value that is the subject of subsection (b), (c), or (d) of this section
3 has a value of \$100,000 or more is guilty of a felony and on conviction is subject to
4 imprisonment not exceeding **[25] 20** years or a fine not exceeding \$25,000 or both.

5 (2) A person who violates this section where the benefit, credit, good,
6 service, health information or health care, or other thing of value that is the subject of
7 subsection (b), (c), or (d) of this section has a value of **AT LEAST \$100 BUT** less than
8 **[\$1,000] \$2,000** is guilty of a misdemeanor and on conviction is subject to imprisonment
9 not exceeding **[18] 12** months or a fine not exceeding \$500 or both.

10 (3) A person who violates this section under circumstances that reasonably
11 indicate that the person's intent was to manufacture, distribute, or dispense another
12 individual's personal identifying information without that individual's consent is guilty of
13 a felony and on conviction is subject to imprisonment not exceeding **[15] 10** years or a fine
14 not exceeding \$25,000 or both.

15 (4) A person who violates subsection (b-1), (c)(1), (e), or (f) of this section is
16 guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding **[18]**
17 **12** months or a fine not exceeding \$500 or both.

18 (5) When the violation of this section is pursuant to one scheme or
19 continuing course of conduct, whether from the same or several sources, the conduct may
20 be considered as one violation and the value of the benefit, credit, good, service, or other
21 thing of value may be aggregated in determining whether the violation is a felony or
22 misdemeanor.

23 8-516.

24 (a) If a violation of this part results in the death of an individual, a person who
25 violates a provision of this part is guilty of a felony and on conviction is subject to
26 imprisonment not exceeding life or a fine not exceeding \$200,000 or both.

27 (b) If a violation of this part results in serious injury to an individual, a person
28 who violates a provision of this part is guilty of a felony and on conviction is subject to
29 imprisonment not exceeding 20 years or a fine not exceeding \$100,000 or both.

30 (c) If the value of the money, health care services, or other goods or services
31 involved is **[\$1,000] \$2,000** or more in the aggregate, a person who violates a provision of
32 this part is guilty of a felony and on conviction is subject to imprisonment not exceeding 5
33 years or a fine not exceeding \$100,000 or both.

34 (d) A person who violates any other provision of this part is guilty of a
35 misdemeanor and on conviction is subject to imprisonment not exceeding 3 years or a fine
36 not exceeding \$50,000 or both.

1 (e) (1) In this subsection, “business entity” includes an association, firm,
2 institution, partnership, and corporation.

3 (2) A business entity that violates a provision of this part is subject to a
4 fine not exceeding:

5 (i) \$250,000 for each felony; and

6 (ii) \$100,000 for each misdemeanor.

7 8–611.

8 (a) (1) In this section the following words have the meanings indicated.

9 (2) “Counterfeit mark” means:

10 (i) an unauthorized copy of intellectual property; or

11 (ii) intellectual property affixed to goods knowingly sold, offered for
12 sale, manufactured, or distributed, to identify services offered or rendered, without the
13 authority of the owner of the intellectual property.

14 (3) “Intellectual property” means a trademark, service mark, trade name,
15 label, term, device, design, or word adopted or used by a person to identify the goods or
16 services of the person.

17 (4) “Retail value” means:

18 (i) a trademark counterfeiter’s selling price for the goods or services
19 that bear or are identified by the counterfeit mark; or

20 (ii) a trademark counterfeiter’s selling price of the finished product,
21 if the goods that bear a counterfeit mark are components of the finished product.

22 (5) “Trademark counterfeiter” means a person who commits the crime of
23 trademark counterfeiting prohibited by this section.

24 (b) A person may not willfully manufacture, produce, display, advertise,
25 distribute, offer for sale, sell, or possess with the intent to sell or distribute goods or services
26 that the person knows are bearing or are identified by a counterfeit mark.

27 (c) If the aggregate retail value of the goods or services is ~~[\$1,000]~~ **\$2,000** or
28 more, a person who violates this section is guilty of the felony of trademark counterfeiting
29 and on conviction:

1 (1) is subject to imprisonment not exceeding [15] 10 years or a fine not
2 exceeding \$10,000 or both; and

3 (2) shall transfer all of the goods to the owner of the intellectual property.

4 (d) If the aggregate retail value of the goods or services is less than [\$1,000]
5 \$2,000, a person who violates this section is guilty of the misdemeanor of trademark
6 counterfeiting and on conviction:

7 (1) is subject to[:

8 (i) for a first violation,] imprisonment not exceeding [18] 12 months
9 or a fine not exceeding \$1,000 or both[; or

10 (ii) for each subsequent violation, imprisonment not exceeding 18
11 months or a fine not exceeding \$5,000 or both]; and

12 (2) shall transfer all of the goods to the owner of the intellectual property.

13 (e) An action or prosecution for trademark counterfeiting in which the aggregate
14 retail value of the goods or services is less than [\$1,000] \$2,000 shall be commenced within
15 2 years after the commission of the crime.

16 (f) Any goods bearing a counterfeit mark are subject to seizure by a law
17 enforcement officer to preserve the goods for transfer to the owner of the intellectual
18 property either:

19 (1) under an agreement with the person alleged to have committed the
20 crime; or

21 (2) after a conviction under this section.

22 (g) State or federal registration of intellectual property is prima facie evidence
23 that the intellectual property is a trademark or trade name.

24 8–801.

25 (a) (1) In this section the following words have the meanings indicated.

26 (2) “Deception” has the meaning stated in § 7–101 of this article.

27 (3) “Deprive” has the meaning stated in § 7–101 of this article.

28 (4) “Obtain” has the meaning stated in § 7–101 of this article.

29 (5) “Property” has the meaning stated in § 7–101 of this article.

1 (6) (i) “Undue influence” means domination and influence amounting
2 to force and coercion exercised by another person to such an extent that a vulnerable adult
3 or an individual at least 68 years old was prevented from exercising free judgment and
4 choice.

5 (ii) “Undue influence” does not include the normal influence that one
6 member of a family has over another member of the family.

7 (7) “Value” has the meaning stated in § 7–103 of this article.

8 (8) “Vulnerable adult” has the meaning stated in § 3–604 of this article.

9 (b) (1) A person may not knowingly and willfully obtain by deception,
10 intimidation, or undue influence the property of an individual that the person knows or
11 reasonably should know is a vulnerable adult with intent to deprive the vulnerable adult
12 of the vulnerable adult’s property.

13 (2) A person may not knowingly and willfully obtain by deception,
14 intimidation, or undue influence the property of an individual that the person knows or
15 reasonably should know is at least 68 years old, with intent to deprive the individual of the
16 individual’s property.

17 (c) (1) (i) A person convicted of a violation of this section when the value of
18 the property is at least ~~[\$1,000]~~ **\$2,000** but less than ~~[\$10,000]~~ **\$25,000** is guilty of a felony
19 and:

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

22 2. shall restore the property taken or its value to the owner,
23 or, if the owner is deceased, restore the property or its value to the owner’s estate.

24 (ii) A person convicted of a violation of this section when the value of
25 the property is at least ~~[\$10,000]~~ **\$25,000** but less than \$100,000 is guilty of a felony and:

26 1. is subject to imprisonment not exceeding ~~[15]~~ **10** years or
27 a fine not exceeding \$15,000 or both; and

28 2. shall restore the property taken or its value to the owner,
29 or, if the owner is deceased, restore the property or its value to the owner’s estate.

30 (iii) A person convicted of a violation of this section when the value of
31 the property is \$100,000 or more is guilty of a felony and:

32 1. is subject to imprisonment not exceeding ~~[25]~~ **20** years or
33 a fine not exceeding \$25,000 or both; and

