

# In Mass., small theft is big crime, and lawmakers notice



CAROLYN KASTER/AP

**An iPhone.**

**By Joshua Miller | GLOBE STAFF MARCH 09, 2016**

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Massachusetts is an outlier.

People convicted here of stealing cash or goods worth more than \$250 — say, a smartphone — are felons, subject to up to five years in state prison and diminished education and job prospects once they've done their time. But in

almost every other state, people have to steal considerably more to face such serious consequences.

The state Senate, as part of its push to overhaul the criminal justice system, is poised Thursday to pass a bill to increase the threshold for when certain kinds of stealing constitute a felony — to more than \$1,500.

The primary aim of the bill, senators behind it say, is to help people who have paid their debt to society become productive members of the community.

Attorney General Maura Healey, who, like many top law enforcement officials, supports raising the threshold, said in written testimony that the state has not revisited the issue since 1987, and Massachusetts has fallen out of line with other states.

“The threshold amount for larceny in Massachusetts is the third lowest in the country” — only New Jersey and Virginia have a lower bar — wrote Healey, who said she is leaving it to lawmakers to select the appropriate amount.

Advocates say the change is common sense.

“If you have a felony on your criminal record, it makes a big difference for applying for jobs: You probably won’t be hired. That conviction is going to create barriers for all kinds of opportunities,” said Pauline Quirion, director of the criminal records sealing project at Greater Boston Legal Services. “A young person who swiped some expensive sunglasses, more than \$250? Felon. It makes felons out of people who have committed only minor offenses.”

Those convicted of a felony offense must wait 10 years before that crime can be sealed on their record, as opposed to five years for a misdemeanor.

Margaret Monsell, an employment law attorney with the Massachusetts Law Reform Institute, said that means those found guilty of a minor, but more than \$250, theft would have to wait 10 years before a landlord or a housing authority or some employers might avoid seeing that they are a felon

“That seems disproportionate to the crime of, say, stealing an iPhone,” she said.

A powerful retail group is strongly against the Senate bill.

“We oppose it as is,” said Jon B. Hurst, president of the Retailers Association of Massachusetts. “They’re going too far.”

Hurst called the bill “soft on crime” and argued many people stealing goods are career criminals, or working for career criminals, who use the profits from selling stolen goods for other illegal activities. Changing the felony threshold, Hurst said, will mean crooks target more expensive goods because the penalties are likely to be less.

But many law enforcement officials support the idea of raising the threshold, though they differ on where that limit should be set.

Essex District Attorney Jonathan Blodgett “supports the idea of raising the threshold and defers to the Legislature to set the appropriate amount,” said spokeswoman Carrie Kimball-Monahan.

Middlesex District Attorney Marian T. Ryan said in a statement the proposal “is reasonable when considering the serious penalties and collateral consequences of a felony conviction. It has been decades since this amount has been increased and an adjustment is appropriate.”

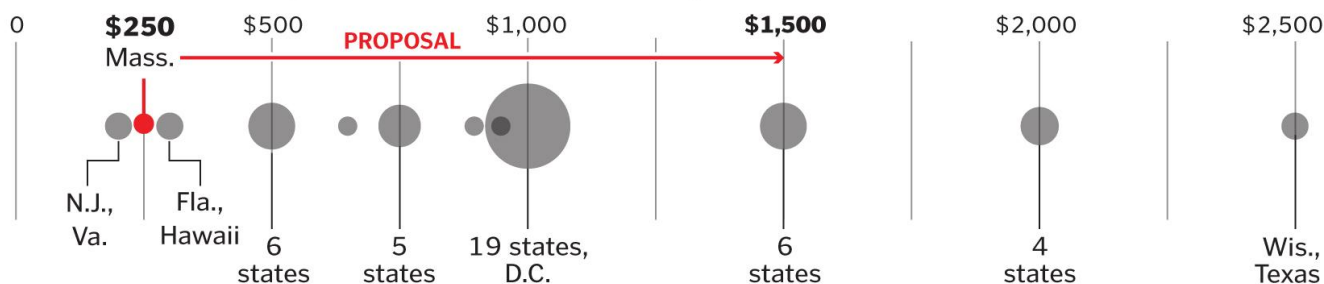
But Suffolk District Attorney Daniel F. Conley, believes the proposed figure is too high, according to spokesman Jake Wark.

“Fifteen hundred dollars is far more than most people in Suffolk County bring home in their paycheck each week, and it can represent a significant loss for small business owners,” Wark said. “Because the effect on victims ought to be considered in this calculus, DA Conley hopes there will be further discussion about where the line should be drawn.”

Under current law, a person convicted of stealing something with a value of more than \$250 — a new iPhone 6 retails for at least \$549, by way of example — is guilty of a felony, and subject to up to five years in state prison, or up to two years in jail and a fine of up to \$25,000. If what’s stolen is worth \$250 or less, the crime is a less serious misdemeanor, subject to up a year in jail or a fine of up to \$300.

## Felony thresholds

The value that stolen goods must exceed for a felony conviction in 50 states and D.C.



SOURCES: Attorney General Maura Healey’s office; National Conference of State Legislatures

DAVID BUTLER/GLOBE STAFF

The bill effectively reduces the maximum incarceration for people who steal between \$250 and \$1,500 worth of goods or cash. But it also raises the potential fines for those crimes.

The bill lifts the felony threshold to \$1,500 for some similar crimes: fraudulently using someone else’s credit card, knowingly receiving stolen goods, and destroying personal property. The bill does not, however, address a range of other theft crimes on the books, such as stealing from a person 65 years or older.

Legislators said the Senate push is sensible for several reasons. Senator Sonia Chang-Diaz, a Jamaica Plain Democrat, framed it as a smart policy not just for ex-offenders but also for taxpayers.

“If you steal \$251 worth of something in Massachusetts today, you can get locked up for up to five years, and taxpayers [could] literally pay over a thousand times the value of what you stole to lock you up for that period of time,” Chang-Diaz said, though she acknowledged offenders rarely face that many years in prison for stealing so little. A total of 946 people were incarcerated for felony larceny between \$250 and \$10,000 in fiscal year 2013, according to state data.

Senator William N. Brownsberger, a chairman of the Legislature’s judiciary committee, said the Senate is “all about trying to make it easier for people to get back up on their feet after they make mistakes.”

Brownsberger, a Belmont Democrat, added that the bill is keeping with the intent of the original law, which goes back more than a century: “I think \$1,500 is a reasonable level. If you look back to earlier versions of this law, it doesn’t even keep up with inflation.”

The Legislature last boosted the line between misdemeanor and felony larceny in 1987, when it was raised from \$100 to \$250.

The prospects for the bill after the Senate acts are unclear.

A spokesman for House Speaker Robert A. DeLeo said the House will review the legislation after the Senate takes action on it. And Governor Charlie Baker will review all legislation reaching his desk, a Baker spokesman said. Neither commented on the merits of the bill, and when asked about it Tuesday, the governor said he wasn’t familiar with the details of the legislation.

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