RACIAL EQUITY IMPACT NOTE

DEPARTMENT OF LEGISLATIVE SERVICES

MARYLAND · GENERAL · ASSEMBLY

2024 Session
HB0304

Gun Theft Felony Act of 2024

Bill Summary

This bill (1) excludes theft of a firearm from the general theft statute; (2) classifies theft of a firearm as a separate felony offense; and (3) establishes penalties for theft of a firearm.

Racial Equity Impact Statement

Under current law, penalties for gun theft are provided under the general theft statute and vary based on the value of the stolen property. The bill removes gun theft from the general theft statute and alters the penalties applicable to theft of a firearm. Demographic data specific to gun theft is not readily available to measure specific impacts. Data on general larceny-theft arrests from 2022, however, indicates some disparity between Black offenders and offenders of other races. This limited data suggests that the bill's provisions have the potential to exacerbate racial disparities that exist currently in the State's criminal justice system. Additional data on the racial and ethnic distribution of the individuals charged and/or convicted of firearm thefts would be required to measure the specific impacts of the bill.

Analysis

This bill establishes and alters penalties under § 7-104 of the Criminal Law Article for theft of a firearm. A person convicted of theft of a firearm, including an antique firearm or a replica of an antique firearm, is guilty of a felony and subject to the following penalties: (1) for a first conviction, a maximum penalty of 5 years imprisonment and/or a $1,000 fine; and (2) for a second or subsequent conviction, a maximum penalty of 10 years imprisonment and/or a $2,500 fine. A sentence imposed for theft of a firearm under the bill must be separate from and consecutive to a sentence imposed for any other offense.

Larceny-theft is the unlawful taking, carrying, leading, or riding away of property from the possession or constructive possession of another person. Under existing law, theft of a firearm is subject to the general theft statute, which imposes penalties based on the value of the stolen property or services. Generally, theft of an item that is less than $1,500 in value is a misdemeanor. Depending on the value of the property stolen and whether a defendant has prior convictions, the maximum penalty for misdemeanor theft is up to five years imprisonment and/or a $5,000 fine.

Changing crimes from misdemeanors to felonies means that (1) such cases are likely to be filed in the circuit courts rather than the District Court and (2) some persons may eventually serve longer incarcerations due to more stringent penalty provisions applicable to some offenses for prior felony convictions.
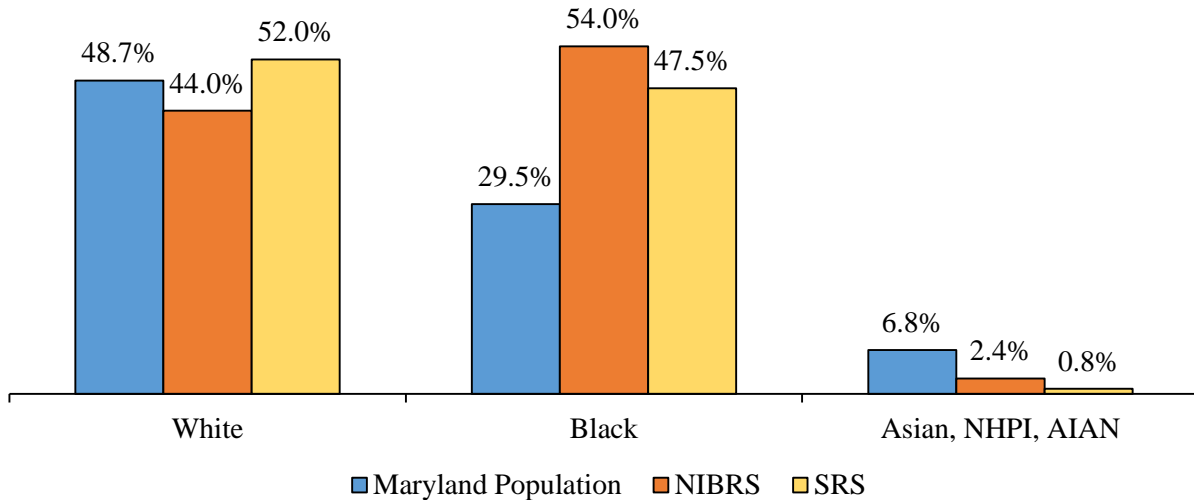
Uniform Crime Reporting in Maryland

The Department of State Police (DSP) crime reporting program is currently in the process of moving from its current reporting system to the Federal Bureau of Investigation's (FBI) National Incident Based Reporting System (NIBRS). Effective January 1, 2021, the FBI mandated this change in crime reporting from the existing Summary Reporting System (SRS) to NIBRS. The move to NIBRS is designed to improve the quality and quantity of crime data collected by law enforcement agencies. As of November 15, 2023, DSP reports that of the 157 reporting law enforcement agencies in Maryland, 99 have completed the transition to NIBRS. They include all primary agencies (county police/sheriff) in 20 counties and Baltimore City, including all counties with populations over 100,000. There are 30 agencies still in various stages of the NIBRS transition. The data for the remaining 28 reporting agencies is included among the other 99 reporting agencies as they represent multiple locations.

The available DSP arrest data suggest that Black individuals are consistently overrepresented in the larceny arrest data when compared to their overall share of the State's population. During 2022, a total of 5,196 larceny-thefts and 1,004 arrests were reported through SRS. As shown in **Exhibit 1**, while Black individuals account for only 29.5% of the State population, 47.5% of the arrestees were Black. Of the remaining arrestees, approximately 52% were white, slightly higher than the overall white population in the State. Asian, American Indian or Alaska Native, and Native Hawaiian or Other Pacific Islander individuals accounted for less than 1% of arrestees.

NIBRS reporting agencies reported 74,331 larceny-thefts and 6,553 arrests. Black and white arrestees comprised 54% and 44%, respectively, of the total arrestees. Asian, American Indian or Alaska Native, and Native Hawaiian or Other Pacific Islander individuals accounted for just over 2% of total arrestees.

There is no data readily available specifically documenting gun thefts, so an impact analysis specific to the bill's provisions is not possible at this time.

Exhibit 1
Larceny-Theft Arrests in Maryland
2022

NIBRS: National Incident Based Reporting System
SRS: Summary Reporting System

Note: SRS totals represent less than 30% of reporting law enforcement agencies.

Source: Department of State Police; Department of Legislative Services

Conclusion

The statewide racial and ethnic demographics of individuals arrested for larceny-theft crimes, as reported by Maryland law enforcement agencies, suggest racial disproportionality exists for Black individuals for larceny-theft arrests generally, but no data is readily available to measure inequities related specifically to gun theft charges, arrests, and convictions. Thus, the exact magnitude of this bill's potential impacts on racial equity cannot be fully measured without additional historical and comprehensive data on the racial and ethnic distribution of firearm thefts.
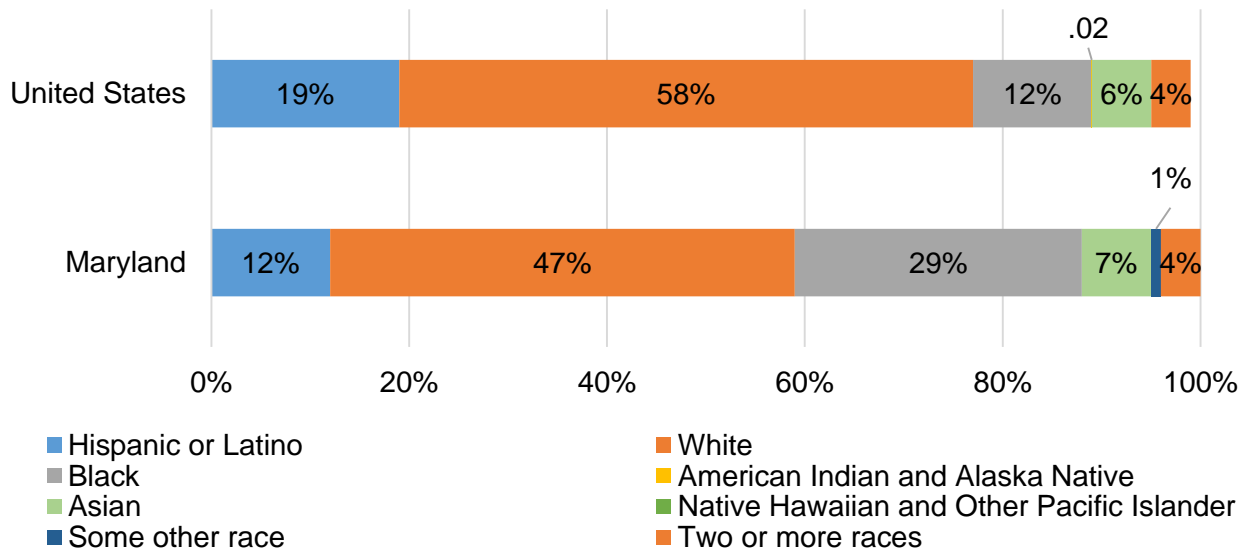
Appendix 1 – Maryland Demographics

Race and Ethnicity of the Maryland Population

Maryland's 2020 census population is 6,177,244, a 7% increase from the 2010 census count and approximately 2% higher than the 2019 census population estimates. In addition to an increase in population, Maryland's racial demographics have become more diverse. Maryland is now a state in which racial minorities make up a majority of its total population. Notable changes relevant to this shift are the increase in groups who identify as "other" and "multiracial" (*i.e.*, two or more racial identities), which total 5% of the State's population. Additionally, the change in demographics is due to the decrease in the number of individuals who only report "white" as their racial group. Despite this decrease, non-Hispanic whites remain the largest single race demographic group in the State of Maryland comprising 47% of the State's population.

Compared to the U.S. population overall, Maryland's population of individuals who identify as a single race is more diverse. Maryland is ranked as the fourth most diverse state by the U.S. Census Bureau's [Diversity Index]. As shown in **Exhibit 1**, in Maryland, 47% identify as white alone compared to 58% of the national population. Similarly, 51% of the population identify as non-white or multi-racial compared to 38% of the national population. In both the State and national population, the largest shares of the non-white population are individuals who are Black, with 29% of the State population identifying only as Black and another 2.5% identifying as Black in combination with some other race. Maryland's Asian population is 7%, which is slightly higher than the Asian share of the national population of 6%. The State's overall population by ethnicity, however, is slightly less diverse than the U.S. population; 12% of the State's population identified as Hispanic or Latino compared to 19% of the U.S. population.

Exhibit 1
U.S. and Maryland Population by Race and Ethnicity
2020

Source: U.S. Census Bureau, 2020 Census Redistricting Data (Public Law 94-171), Table ID P2, HISPANIC OR LATINO, AND NOT HISPANIC OR LATINO BY RACE.