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HB 94: Criminalizing Porch Piracy

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CRIMES AND OFFENSES

Offenses Involving Theft: Amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, Relating to Theft, so as to Provide for the Crime of Theft by Possession of Stolen Mail; Provide for the Crime of Porch Piracy; Provide for Definitions; Provide for Penalties; Provide for Related Matters; Repeal Conflicting Laws; and for Other Purposes.

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|-----------------|---|
| CODE SECTIONS: | O.C.G.A. §§ 16-8-24 (new); -25 (new) |
| BILL NUMBER: | HB 94 |
| ACT NUMBER: | 269 |
| GEORGIA LAWS: | 2021 Ga. Laws 652 |
| SUMMARY: | The Act criminalizes the possession of stolen mail and the theft of mail or packages from the porch or entrance of a residential building. A violator may be subject to felony prosecution and imprisonment of one to five years. |
| EFFECTIVE DATE: | July 1, 2021 |

History

Millions of people across the United States have received notifications from Amazon indicating that their package has been delivered to their front doorstep only to find the package gone when they get home.¹ Despite its whimsical name, “porch piracy” can be an annoying and frustrating experience.² More than one-third of Americans reported having a package stolen from their porch or mailbox in 2019.³ That number predictably increased in 2020 during

1. *2019 Package Theft Statistics Report*, C+R RSCH. [hereinafter *2019 Report*], <https://www.crresearch.com/blog/2019-package-theft-statistics-report> [https://perma.cc/EZ8G-L8Z4].

2. Telephone Interview with Rep. Bonnie Rich (R-97th) (May 20, 2021) (on file with the Georgia State University Law Review) [hereinafter Rich Interview]; see also *2019 Report*, *supra* note 1; Damaris Martino, *Over a Third of Americans are Victims of ‘Porch Pirates.’ How Not to Become a Statistic*, CNBC, <https://www.cnbc.com/2019/12/13/over-a-third-of-americans-are-porch-pirate-victims-dont-become-one.html> [https://perma.cc/YT56-EWEJ] (Dec. 13, 2019, 11:12 AM).

3. *2019 Report*, *supra* note 1.

the COVID-19 pandemic with the growth of online shopping; one study found that 25 million households reported at least one instance of mail theft within a three-month period in 2020.⁴ In particular, reports of life-saving medication being stolen created even more cause for concern.⁵

To address this increasingly pervasive problem, Representative Bonnie Rich (R-97th) introduced House Bill (HB) 94 during the 2021 legislative session to create the new felony of porch piracy.⁶ She introduced the bill in response to a recommendation from the U.S. Postal Inspector, who described the issue as “out of control.”⁷ The U.S. Postal Service found that mail theft takes place on a large scale not by petty thieves but by organized criminal rings that see stolen packages as a money-making opportunity.⁸ According to Representative Rich, the problem in stopping porch piracy was the inadequacy of Georgia’s laws related to property theft.⁹

Under Georgia’s existing property theft statute, stolen mail could only be prosecuted as a felony if the dollar amount of the package exceeded \$1,500.¹⁰ As a result, the vast majority of porch piracy cases were misdemeanors, which, according to Representative Rich and other Georgia lawmakers, was an inadequate deterrent.¹¹ So, the proposed legislation sought to bring porch piracy in line with Georgia’s burglary laws, which permit prosecution as a felony notwithstanding the dollar amount of the stolen property.¹² Because the porch is part of the “castle,” the proposed legislation sought to

4. *Package Thefts Rising During Covid-19 Pandemic: Porch Pirates Victimized 25 Million Households in Last 90 Days*, SECURITY.ORG (May 26, 2020) [hereinafter *Covid Statistics*], <https://www.security.org/research/package-theft-spike-covid/> [<https://perma.cc/K9ZB-RRXD>].

5. Video Recording of House Judiciary Non-Civil Committee Meeting at 07 min., 10 sec. (Feb. 18, 2021) [hereinafter *House Judiciary Non-Civil Video*] (remarks by Rep. Bonnie Rich (R-97th)), <https://livestream.com/accounts/25225474/events/8737140/videos/217717602>.

6. *Id.* at 02 min., 15 sec.

7. Video Recording of Senate Judiciary Committee Meeting at 1 hr., 09 min., 20 sec. (Mar. 17, 2021) [hereinafter *Senate Judiciary Video*] (remarks by Keith Speers, U.S. Postal Inspector), <https://livestream.com/accounts/26021522/events/8743306/videos/218891587>.

8. *Id.* at 1 hr., 11 min., 10 sec.

9. Rich Interview, *supra* note 2.

10. O.C.G.A. § 16-8-2 (2018); O.C.G.A. § 16-8-12(a)(1)(C) (2018).

11. Rich Interview, *supra* note 2; *see also* Senate Judiciary Video, *supra* note 7, at 1 hr., 05 min., 20 sec. (remarks by Rep. Bonnie Rich (R-97th)).

12. House Judiciary Non-Civil Video, *supra* note 5, at 20 min., 02 sec. (remarks by Rep. William Boddie (D-62nd)).

incorporate the principle that crimes conducted within the vicinity of one's castle should carry a heavier penalty.¹³

Although the proposed bill is aimed at porch piracy nominally, HB 94 addresses two distinct separate types of conduct.¹⁴ Section 1 of the bill addresses the “possession of stolen mail” regardless of whether a suspect was caught stealing the mail from a porch or mailbox.¹⁵ Section 2 of the bill addresses “porch piracy,” which is the act of taking mail from “the porch, steps, or immediate vicinity of any entrance or exit of a dwelling.”¹⁶

The proposed bill was well-supported by Republicans in the Georgia Assembly and local district attorneys across the state.¹⁷ Republicans cited the continued growth of e-commerce as an example of the legislature's duty to “change the Georgia code in response to how society has changed.”¹⁸ Georgia Democrats, however, were concerned with the punitive nature of the bill and the effect that it could have on the state's criminal justice system.¹⁹ Democrats were also skeptical of the bill because they thought it was needlessly duplicative of the state's existing theft statutes.²⁰ Against this backdrop, HB 94 entered the House hopper without guarantee that it would pass without amendment.

Bill Tracking of HB 94

Consideration and Passage by the House

Representative Bonnie Rich (R-97th) sponsored HB 94 in the House with Representative Terry England (R-116th), Representative Bert Reeves (R-34th), Representative Karen Mathiak (R-73rd),

13. *Id.* at 20 min., 55 sec. (remarks by Rep. Bert Reeves (R-34th)).

14. *See generally* HB 94, as introduced, 2021 Ga. Gen. Assemb.

15. *Id.* § 1, pp. 1–2, ll. 16–24, 2021 Ga. Gen. Assemb.

16. *Id.* § 2, pp. 2–3, ll. 38–41, 2021 Ga. Gen. Assemb.

17. Video Recording of House Proceedings at 53 min., 02 sec. (Mar. 3, 2021) [hereinafter House Proceedings Video] (remarks by Rep. Terry England (R-116th)), <https://www.youtube.com/watch?v=WFrG53deOJg>.

18. *Id.* at 1 hr., 10 min., 55 sec. (remarks by Rep. Chuck Efstration (R-104th)).

19. *See id.* at 57 min., 30 sec. (remarks by Rep. Josh McLaurin (D-51st)).

20. O.C.G.A. § 16-8-2 (2018); *see also* House Proceedings Video, *supra* note 17, at 1 hr., 04 min., 35 sec. (remarks by Rep. William Boddie (D-62nd)).

Representative Beth Camp (R-131st), and Representative Stan Gunter (R-8th) cosponsoring.²¹ The bill was filed with the House Clerk on January 14, 2021, and was read for the first time on January 26, 2021.²² The House read the bill for a second time on January 27, 2021, and then referred it to the House Judiciary Non-Civil Committee the same day.²³

The Committee favorably reported the bill as introduced on February 26, 2021.²⁴ The House read the bill for the third time on March 3, 2021, when it was brought to the floor for debate.²⁵ Representative Rich, Representative Chuck Efstration (R-104th), Representative Ed Setzler (R-35th), Representative Reeves, and Representative James Burchett (R-176th) made floor speeches in support of the bill.²⁶ Representative Josh McLaurin (D-51st) and Representative William Boddie (D-62nd) made floor speeches in opposition to the bill.²⁷ The House passed the bill without amendment by a vote of 101 to 67 on March 3, 2021.²⁸

Consideration and Passage by the Senate

Senator John Kennedy (R-18th) sponsored the bill in the Senate.²⁹ The Senate read the bill for the first time on March 5, 2021, and was referred to the Senate Judiciary Committee on the same day.³⁰ The Committee made two amendments to the bill.³¹ The first amendment added language to Section 1 of the bill giving the trial judge the discretion to mitigate the crime's punishment to that of a misdemeanor.³² The second amendment increased the number of stolen packages needed to prosecute under Section 2 from one to three

21. Georgia General Assembly, HB 94, Bill Tracking [hereinafter HB 94, Bill Tracking], <https://www.legis.ga.gov/legislation/58933>.

22. State of Georgia Final Composite Status Sheet, HB 94, May 13, 2021.

23. *Id.*

24. *Id.*

25. *Id.*

26. *See generally* House Proceedings Video, *supra* note 17.

27. *See generally id.*

28. Georgia House of Representatives Voting Record, HB 94, #150 (Mar. 3, 2021).

29. HB 94, Bill Tracking, *supra* note 21.

30. *Id.*

31. State of Georgia Final Composite Status Sheet, HB 94, May 13, 2021.

32. HB 94 (SCS), 2021 Ga. Gen. Assemb.

packages.³³ The Committee favorably reported the bill by substitute on March 25, 2021, and the Senate read the bill for a second time that day.³⁴ On March 29, 2021, the Senate read the bill for a third time, and it passed by a 38 to 14 vote on the Senate floor on the same day.³⁵

The House agreed to the Senate's substitute and voted 103 to 59 to pass the bill on March 31, 2021.³⁶ The House sent the bill to Governor Brian Kemp (R) on April 7, 2021, and he signed it into law as Act 269 on May 10, 2021.³⁷ The Act's effective date is July 1, 2021.³⁸

The Act

The Act amends Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft.³⁹ The Act provides for the crimes of theft by possession of stolen mail and porch piracy.⁴⁰

Section 1

Section 1 of the Act adds a new Code section, 16-8-24, to Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated and provides for the crime of possession of stolen mail.⁴¹ Subsection (a) provides definitions for mail and possession of stolen mail.⁴² Mail means "a letter, post card, package, bag, or other sealed article that [i]s delivered . . . and has not yet been received by the person to whom it is addressed . . . or [h]as been left in a location to be collected for delivery."⁴³ To possess stolen mail means:

33. *Id.*

34. *Id.*

35. State of Georgia Final Composite Status Sheet, HB 94, May 13, 2021; Georgia Senate Voting Record, HB 94, #348 (Mar. 29, 2021).

36. Georgia House of Representatives Voting Record, HB 94, #366 (Mar. 31, 2021).

37. State of Georgia Final Composite Status Sheet, HB 94, May 13, 2021.

38. *Id.*

39. *See generally* 2021 Ga. Laws 652.

40. *Id.*

41. 2021 Ga. Laws 652, § 1, at 652–53 (codified at O.C.G.A. § 16-8-24 (Supp. 2021)).

42. § 16-8-24(a)(1).

43. *Id.*

[T]o knowingly receive, retain, possess, conceal, or dispose of stolen mail knowing that it has been stolen and to withhold such stolen mail from the true owner or person to whom the mail is addressed or to appropriate such stolen mail to the use of any person other than the true owner or the person to whom the mail is addressed.⁴⁴

Subsection (b) provides that a person shall be guilty of possession of stolen mail if they possess “a minimum of ten separate pieces of stolen mail” that are “addressed to three or more different mailboxes or addresses.”⁴⁵ Subsection (c) makes the crime a felony with a penalty of imprisonment for one to five years but leaves the trial judge the discretion to punish the crime as a misdemeanor.⁴⁶

Finally, subsection (d) imposes higher penalties for those in possession of massive amounts of stolen mail by making “each set of ten separate pieces of stolen mail addressed to three or more different mailboxes or addresses [] a separate and distinct crime.”⁴⁷ Subsection (e) adds that a person who possesses stolen mail may not use the fact that they were never apprehended as a defense to the crime of possession of stolen mail.⁴⁸

Section 2

Section 2 of the Act adds Code section 16-8-25 to Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated and provides for the crime of porch piracy.⁴⁹ Subsection (a) clarifies that the term “dwelling” has the same definition as in Code section 16-7-1, the burglary statute.⁵⁰ That statute defines dwelling as “any building, structure, or portion thereof which is designed or intended for

44. *Id.* § 16-8-24(a)(2).

45. *Id.* § 16-8-24(b).

46. *Id.* § 16-8-24(c).

47. *Id.* § 16-8-24(d).

48. O.C.G.A. § 16-8-24(e) (Supp. 2021).

49. 2021 Ga. Laws 652, § 2, at 653 (codified at O.C.G.A. § 16-8-25 (Supp. 2021)).

50. § 16-8-25(a).

occupancy for residential use[.]”⁵¹ Subsection (b) provides that a person is guilty of porch piracy if “such person takes, removes, or otherwise appropriates three or more envelopes, bags, packages, or other related articles of another person . . . from the porch, steps, or immediate vicinity of any entrance or exit of a dwelling of three or more different mailboxes or addresses.”⁵² In other words, a person must take three or more articles from three or more different “porches” to be guilty of porch piracy.⁵³ Finally, subsection (c) mirrors subsection (c) from Section 1 of Code section 16-8-24 and makes the crime a felony with a punishment of one to five years but gives the trial judge the discretion to punish the crime as a misdemeanor.⁵⁴

Analysis

The Role of the Prosecutor

Proponents of HB 94 pointed to the lack of prosecutorial resources to support the creation of a new felony for porch piracy.⁵⁵ For instance, local jurisdictions lacked the resources to “calculate the value of the contents of each package” for the purpose of bringing a misdemeanor or felony charge.⁵⁶ Instead, most instances of mail theft turned into “catch and release.”⁵⁷ As a felony, however, HB 94 provides an “incentive” for prosecutors to allocate their resources to mail theft with the hopes of creating a sufficient deterrent effect for would-be porch pirates.⁵⁸

Although much attention has been given to the increased penalties for porch piracy under HB 94, the deterrent that the bill seeks to create largely depends on the willingness of prosecutors to enforce the law.⁵⁹

51. O.C.G.A. § 16-7-1(a)(1) (2018).

52. § 16-8-25(b).

53. *Id.*

54. *Id.* § 16-8-25(c).

55. Rich Interview, *supra* note 2.

56. House Proceedings Video, *supra* note 17, at 1 hr., 14 min., 33 sec. (remarks by Rep. Chuck Efration (R-104th)).

57. Senate Judiciary Video, *supra* note 7, at 1 hr., 05 min., 39 sec. (remarks by Rep. Bonnie Rich (R-97th)).

58. *Id.*

59. House Proceedings Video, *supra* note 17, at 1 hr., 14 min., 10 sec. (remarks by Rep. Chuck

Criminology scholars have long doubted the severity of a punishment as the driving force of deterrence and instead have insisted that the *certainty* of punishment plays the bigger role.⁶⁰ In criminology theory, certainty refers to the probability of being apprehended and formally charged with a crime.⁶¹ This theory contemplates criminals as rational decision makers who see the utility of committing a crime decrease as the certainty of punishment increases.⁶²

At its core, the prosecutor's discretion in charging a suspect with porch piracy will play a key role in deterring criminal conduct. One study discovered a significant decrease in crime where local prosecutors devoted additional resources to filing and adjudicating more criminal cases.⁶³ The certainty of punishment was so significant that it deterred crime at levels greater than increased police force.⁶⁴ Interestingly, the study also found that the severity of the punishment did not deter criminal behavior.⁶⁵ But this is not to suggest that severity does not have any effect on deterrence—without the threat of serious punishment, a rational criminal would have no reason not to commit a crime.⁶⁶ Instead, the effect of certainty and severity on criminal deterrence is a matter of degree.⁶⁷ So, although increasing the penalties for porch piracy may deter more crimes, the severity of the punishment alone is insufficient.⁶⁸ Therefore, to have the intended deterrent effect contemplated by HB 94, prosecutors must devote more resources to

Efstration (R-104th)).

60. Gary S. Becker, *Crime and Punishment: An Economic Approach*, 76 J. POL. ECON. 169, 176 (1968).

61. Scott M. Mourtgos & Ian T. Adams, *The Effect of Prosecutorial Actions on Deterrence: A County-Level Analysis*, 31 CRIM. JUST. POL'Y REV. 479, 481 (2019).

62. Becker, *supra* note 60.

63. Mourtgos & Adams, *supra* note 61, at 491.

64. *Id.*

65. *Id.* at 492. The researchers examined the rate at which prosecuting agencies filed formal charges against offenders, the swiftness of criminal case resolution, and the rate at which cases were pled to less severe punishments and then investigated the effects of these covariates on aggregate county-level crime rates over a five-year period. *Id.*

66. *Id.* at 493.

67. *Id.*; see also Silvia M. Mendes, *Certainty, Severity, and Their Relative Deterrent Effects: Questioning the Implications of the Role of Risk in Criminal Deterrence Policy*, 32 POL'Y STUD. J. 59, 70 (2004). Mendes argues that policymakers should focus equally on the severity of punishment to deter criminal behavior. *Id.*

68. Mourtgos & Adams, *supra* note 61, at 493.

charging and adjudicating porch piracy cases rather than relying solely on the severity of the punishment.⁶⁹

Jurisdictions might seek to preserve resources by undercharging crimes as misdemeanors or bargaining with plea deals because felony prosecution remains costly and exerts a significant strain on local budgets.⁷⁰ Thus, local prosecutors will ultimately need to use discretion in determining whether it is worth the jurisdiction's time, money, and effort to pursue a felony porch piracy case.⁷¹ In striking this balance, prosecuting authorities will need to weigh financial resources against the need to deter criminal behavior by ensuring that the punishment for porch piracy is certain.⁷² One way prosecutors could achieve this balance is by reserving felony prosecution of porch piracy for organized crime rings—as the U.S. Postal Inspector alluded—while punishing petty theft as a misdemeanor.⁷³

Impact on Criminal Justice Reform

Opposition to HB 94 came from House and Senate Democrats who argued that the bill was unnecessary and would hamper Georgia's progress in criminal justice reform.⁷⁴ The bill's detractors cited the state's theft statutes as evidence that the law is a “tough on crime” bill that is needlessly duplicative.⁷⁵ According to Georgia Democrats, creating a new felony for porch piracy would result in overcriminalization and lead to Georgia citizens being “bound up in a criminal legal system that does not have their prosperity in mind.”⁷⁶ The opposition also pointed to the “great deal of courage and leadership” of former Governor Nathan Deal (R), who passed comprehensive criminal justice reforms over the last decade.⁷⁷ In light

69. *Id.* at 494.

70. Adam M. Gershowitz & Laura R. Killinger, *The State (Never) Rests: How Excessive Prosecutorial Caseloads Harm Criminal Defendants*, 105 NW. U. L. REV. 261, 263–64 (2011).

71. Mourtgos & Adams, *supra* note 61, at 494.

72. *Id.*

73. Senate Judiciary Video, *supra* note 7 (remarks by Keith Speers, U.S. Postal Inspector).

74. House Proceedings Video, *supra* note 17, at 57 min., 30 sec. (remarks by Rep. Josh McLaurin (D-51st)).

75. *Id.* at 1 hr., 02 min., 55 sec. (remarks by Rep. William Boddie (D-62nd)).

76. *Id.* at 59 min., 33 sec. (remarks by Rep. Josh McLaurin (D-51st)).

77. *Id.* at 59 min., 05 sec.

of Governor Deal's reforms, Democrats argued that HB 94 is a step in the wrong direction.⁷⁸

In 2012, Governor Deal signed HB 1176 into law, seeking among other things, to decrease the incarceration and recidivism rates in Georgia.⁷⁹ This effort has largely been successful, with the state's incarceration rate far below its 2018 projections.⁸⁰ Additionally, the State reserved 68% of its prison beds for violent and career criminals—a 10% increase from 2009.⁸¹ Prisons were able to reserve space for violent offenders because HB 1176 increased the dollar threshold for many theft statutes from \$500 to \$1,500, which meant that many nonviolent property crimes were prosecuted as misdemeanors.⁸²

Democrats point to this particular reform in arguing that HB 94 is contrary to the state's criminal justice policy.⁸³ By removing the minimum dollar value of the stolen mail, many crimes that would be treated as misdemeanors can now be prosecuted as felonies.⁸⁴ In turn, this will increase the number of offenders who become incarcerated as well as the amount of state spending on the overall prison population.⁸⁵ So, Democrats critiqued HB 94 as an example of "overcriminalization," which refers to the rapid growth in the number of criminal laws in the United States.⁸⁶ For example, there are more sections related to controlled substances alone in the Georgia Criminal Code (122) than in the entire Model Penal Code (114).⁸⁷ Recent studies

78. See generally *id.*; Bill Rankin, *Nathan Deal's Criminal Justice Reforms Leave Lasting Legacy*, ATLANTA J.-CONST. (Dec. 21, 2018), <https://www.ajc.com/news/local/deal-criminal-justice-reforms-leaves-lasting-legacy/ZMwb2vG7C4LurWoFESw46O/> [<https://perma.cc/WR2A-4KBT>].

79. See generally Meg Buice & Tamara Garcia, *Crimes and Offenses HB 1176*, 29 GA. ST. U. L. REV. 290 (2013).

80. JUSTICE MICHAEL P. BOGGS & CAREY A. MILLER, REPORT OF THE GEORGIA COUNCIL ON CRIMINAL JUSTICE REFORM 17–18 (2018), <https://dcs.georgia.gov/important-links/georgia-council-criminal-justice-reform> [<https://perma.cc/WRZ6-EBDK>].

81. See *id.* at 19.

82. Buice & Garcia, *supra* note 79, at 297.

83. House Proceedings Video, *supra* note 17, at 1 hr., 05 min., 50 sec. (remarks by Rep. William Boddie (D-62nd)).

84. *Id.*

85. BOGGS & MILLER, *supra* note 80, at 20.

86. See House Proceedings Video, *supra* note 17, at 57 min., 30 sec. (remarks by Rep. Josh McLaurin (D-51st)); see also JAMES R. COPLAND & RAFAEL A. MANGUAL, MANHATTAN INST., OVERCRIMINALIZING AMERICA: AN OVERVIEW AND MODEL LEGISLATION FOR THE STATES 4 (2018), <https://media4.manhattan-institute.org/sites/default/files/R-JC-0818.pdf> [<https://perma.cc/JCG8-JE7K>].

87. See O.C.G.A. §§ 16-13-1 to -122 (2018). See generally MODEL PENAL CODE (AM. LAW INST., 1962).

also suggest that duplicative and unnecessary state criminal laws are significant drivers of overcriminalization.⁸⁸

Republican supporters of HB 94 addressed the concerns by amending the bill's text in the Senate Judiciary Committee.⁸⁹ The first amendment increased the number of stolen packages needed to convict under Section 2 so that petty, one-off criminals would not be charged with a felony.⁹⁰ Another amendment gave the trial judge the discretion to reduce the sentence of a person convicted of porch piracy to a misdemeanor.⁹¹ This amendment similarly aimed to reserve felony porch piracy for organized, repeat mail thieves.⁹²

Supporters of HB 94, however, doubted whether this second amendment was needed because trial judges already have discretion to reduce the punishment from a felony to a misdemeanor.⁹³ The bill's sponsor, Representative Bonnie Rich (R-97th), remarked that the language in the amendment was added to "appease" legislators from across the aisle.⁹⁴

This amendment, whether superfluous or not, raises another question. In *Ramsey v. Powell*, the Georgia Supreme Court held that although the trial judge has the discretion to reduce the *punishment* at sentencing, the judge cannot change the underlying conviction.⁹⁵ The Court in *Ramsey* further held that a county commissioner could not hold office because he was convicted of a felony even though the trial judge reduced his sentence to a misdemeanor.⁹⁶ HB 94 states that, "[a] person who violates this Code section shall be guilty of a felony and, upon conviction thereof, shall be *punished* by imprisonment for not less than one nor more than five years, or, in the discretion of the trial judge, as for a misdemeanor."⁹⁷ In other words, the judge has the

88. COPLAND & MANGUAL, *supra* note 86, at 7.

89. *See generally* HB 94 (SCS), 2021 Ga. Gen. Assemb.

90. *Id.* § 1, p. 2, ll. 28–30; *id.* § 2, p. 2, ll. 38–40.

91. *Id.* § 1, p. 2, l. 27.

92. Rich Interview, *supra* note 2.

93. *See* O.C.G.A. § 17-10-5 (2020).

94. Rich Interview, *supra* note 2.

95. *Ramsey v. Powell*, 244 Ga. 745, 746, 262 S.E.2d 61, 62 (1979).

96. *Id.* at 746 (“[T]he defendant has been convicted . . . of ‘a crime involving moral turpitude, punishable by the laws of this State with imprisonment in the penitentiary[.]’ . . . hence, falls within those classes of persons designated by the Constitution who shall not be permitted to hold office in this state.”).

97. O.C.G.A. § 16-8-24(c) (Supp. 2021) (emphasis added); *see also* O.C.G.A. § 16-8-25(c) (Supp. 2021).

discretion to reduce the punishment to a misdemeanor, but the underlying conviction for porch piracy would remain as a felony.⁹⁸

All in all, it is well-documented that felony convictions have collateral consequences that go beyond formal sentencing.⁹⁹ Citizens with criminal records face obstacles in obtaining job opportunities, exercising voting rights, and receiving government benefits, including access to housing.¹⁰⁰ Additionally, as the Supreme Court of Georgia made clear in *Ramsey*, people who have been convicted of felonies cannot hold public office.¹⁰¹ Therefore, despite the Republicans' intent to address the Democrats' concern that HB 94 is a step backwards in Georgia's reform project, the bill still appears to hold the latent consequences of criminal justice.

Conclusion

HB 94, also known as the porch piracy law, is the Georgia Assembly's attempt to combat a modern, serious problem that is expected to increase in the coming years. The bill's supporters insist that it is the duty of the legislature to make laws that are consistent with a changing society.¹⁰² The law does not come without controversy, however, with Georgia Democrats arguing that the new felony contradicts the state's progress in criminal justice reform.¹⁰³ Ultimately, the success of the law will fall on the shoulders of local prosecutors who must exercise discretion to ensure that the law is effective, use resources wisely, and target the appropriate class of suspected violators.

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98. See *Ramsey*, 244 Ga. at 746, 262 S.E.2d at 62; O.C.G.A. § 17-10-5 (2020).

99. See generally Zachary Hoskins, *Criminalization and the Collateral Consequences of Conviction*, 12 CRIM. LAW. & PHIL. 625 (2018).

100. *Id.* at 626–27.

101. *Ramsey*, 244 Ga. at 746, 262 S.E.2d at 62.

102. See, e.g., House Proceedings Video, *supra* note 17, at 1 hr., 10 min., 55 sec. (remarks by Rep. Chuck Efration (R-104th)).

103. See, e.g., House Proceedings Video, *supra* note 17, at 57 min., 30 sec. (remarks by Rep. Josh McLaurin (D-51st)).