



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **Senate Bill No. 548**

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Puckett)*

**Date Submitted:** 1/29/04

**LD #:** 04-0965792

**Topic:** Theft of timber

#### **Proposed Change:**

The proposal amends §§ 55-331, 55-332 and 55-334, adds §§ 55-334.1 and 55-334.2 and repeals § 55-333 of the *Code of Virginia* relating to the theft of timber. The proposed § 55-331 modifies the current statute to eliminate the description of, or any reference to, “timberlands”. The proposed § 55-332 describes procedures for determining the damages recoverable for encroachment in timber cutting as defined in § 55-331. Any person who unlawfully cuts or removes timber or authorizes or directs such an unlawful act shall be liable to pay to the rightful owner three times the value of the timber on the stump, and also reforestation costs, the costs of ascertaining the value of the timber, and any directly associated legal costs incurred by the owner. If such damages are not paid within 30 days, the proposed § 55-334 authorizes the owner to proceed for judgment in the amount of payment as specified in § 55-332.

The proposed § 55-334.1 provides that any person who knowingly and unlawfully removes from the lands of another merchantable timber valued at less than \$200 is guilty of petit larceny. If the value of the timber is \$200 or more, the offender is guilty of grand larceny. Any person so convicted shall be ordered to pay restitution calculated pursuant to § 55-332. Proof that the bounds of the subject property were marked with readily visible paint marks meeting specified criteria shall be sufficient evidence of the intent to unlawfully remove such timber. The proposed § 55-334.2 authorizes the Department of Forestry to make all necessary inquiries and investigations related to the theft of timber and describes the measures the Department may take.

Currently, persons violating the proposed provisions may be criminally prosecuted under existing trespassing and larceny statutes.

#### **Data Analysis:**

According to fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, 4,663 offenders held pre- or post-trial in jail were convicted of petit larceny of property valued at less than \$200 (see *Background Sentencing Information* below). Of these, 6% received probation without active incarceration, while 93% were sentenced to local-responsible (jail) terms with a median sentence

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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

of one month. The remaining offenders (1%), convicted of additional charges, received state-responsible (prison) terms.

According to FY2000 and FY2001 Pre/Post-Sentencing Investigation (PSI) data, 4,387 offenders were convicted of grand larceny of property valued at \$200 or more as the primary (most serious) offense in a sentencing event. Of these, 43% received probation without active incarceration, 30% received jail terms, and 27% were sentenced to prison terms with a median sentence of two years.

#### Background Sentencing Information

Misdemeanor Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Local-Responsible Sentence
Petit larceny of property less than \$200 (§ 18.2-96(2))	4663	6%	93%	1%	1 month

Note: Includes only convictions of those held in the local jail pretrial or sentenced to serve time post-trial.  
Data Source: FY2001 and FY2002 Local Inmate Data System (LIDS) database

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Grand larceny of property \$200 or more (§ 18.2-95(ii))	4387	43%	30%	27%	2.0 yrs.

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database

#### Impact of Proposed Legislation:

The proposed legislation may have an impact on state-responsible (prison) beds. The proposal creates two new offenses relating to larceny of timber. Some of these offenses may be covered under existing statutes, such as the current § 18.2-95(ii). However, the extent of the impact, if any, cannot be determined with existing criminal justice databases, which do not contain information concerning the type of property stolen. Therefore, the magnitude of any impact cannot be quantified. Similarly, the impact on jails and community corrections cannot be quantified.

Convictions under the proposed legislation would not be covered by the guidelines as the primary offense but could augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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