



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1550 (Patron – Adams, L.R.)

LD#: 18100462

Date: 12/28/2017

Topic: Larceny threshold

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
Cannot be determined*
- **Juvenile Detention Facilities:**
Cannot be determined*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends numerous sections of the *Code of Virginia* relating to larceny, fraud, and other property crimes. Currently, the felony threshold for grand larceny and many other property crimes is \$200. Under the proposal, this threshold would be increased to \$500.

As this proposal would affect § 18.2-95, it would also raise the felony threshold for fraud and other offenses that are deemed larceny in the *Code*. For example, any person found guilty of embezzlement under § 18.2-111 is deemed guilty of larceny and is subject to the punishment provided in §§ 18.2-95 or 18.2-96. In other cases, the value of the property that identifies the felony threshold is specified in the *Code*. Under the proposed modifications to §§ 18.2-23, 18.2-80, 18.2-81, 18.2-95, 18.2-96, 18.2-96.1, 18.2-97, 18.2-102, 18.2-103, 18.2-145.1, 18.2-150, 18.2-152.3, 18.2-162, 18.2-181, 18.2-181.1, 18.2-182, 18.2-186, 18.2-186.3, 18.2-187.1, 18.2-188, 18.2-195, 18.2-195.2, 18.2-197, 18.2-340.37 and 29.1-553 the felony threshold would be increased from \$200 to \$500 in each of these statutes.

Also, the proposal references § 18.2-108.01 relating to larceny with intent to sell or distribute. However, an offense under this statute involving property valued at \$200 or more remains a felony and there is no modification to the penalty structure.

Analysis:

According to Sentencing Guidelines data for fiscal year (FY) 2016 and FY2017, 8,769 offenders were convicted of a felony larceny offense under §§ 18.2-95, 18.2-96.1, 18.2-102, 18.2-103. A conviction under one of these *Code* sections was the primary, or most serious, offense in 7,132 of the cases. Based

on a 2015 Sentencing Commission study, it is estimated that 17.2% of felony larceny offenses (excluding embezzlement) involved a total value between \$200 and \$499.¹ During this two-year period, there were 952 offenders convicted of a felony fraud offense under §§ 18.2-181, 18.2-181.1, 18.2-186, 18.2-186.3, 18.2-187.1, 18.2-188, 18.2-195 or 18.2-197. The felony fraud offense was the primary, or most serious, offense in 394 of the cases. The Commission's 2015 study revealed that approximately 12% of felony fraud offenses involved a total value between \$200 and \$499.² Under the proposal, larceny and fraud offenses involving \$200 to \$499 would no longer be prosecuted as felonies and, instead, would result in misdemeanor convictions punishable by up to 12 months in jail. Offenders who have accumulated three or more petit larceny convictions could still be prosecuted for a felony under § 18.2-104.

Based on FY2016 and FY2017 Sentencing Guidelines data, an additional 43 offenders were convicted of arson of personal property with a value of \$200 or more under § 18.2-81. The arson offense was the primary, or most serious, offense in 33 of the cases. According to Circuit Court Case Management System (CMS) and Sentencing Guidelines data for FY2016 and FY2017, 205 offenders were convicted under other statutes affected by this legislation, including computer fraud, certain offenses related to destruction of property, and selling wildlife. This was the most serious offense in 59 of the cases.

Based on the Sentencing Commission's 2015 study, it is estimated that 22.4% of felony larceny offenses (excluding embezzlement) and 28.6% of felony fraud offenses that involved a total value between \$200 and \$499 received a state-responsible (prison) sentence.³

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation would raise the felony threshold for grand larceny and many other property crimes. Some offenses currently punished as felonies would be reduced to misdemeanors under the proposal. Thus, the proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Currently, some offenders convicted of grand larceny involving \$200 to \$499 are given a state-responsible (prison) term. Under the proposal, these offenders would be convicted of petit larceny and would likely receive a local-responsible (jail) term. In this way, the proposal may increase local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. The proposal may increase local adult community corrections needs, but it is expected to decrease the use of state community corrections resources.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

¹ Virginia Criminal Sentencing Commission, *2015 Annual Report*, page 81.

² Virginia Criminal Sentencing Commission, *2015 Annual Report*, page 87.

³ Virginia Criminal Sentencing Commission, *2015 Annual Report*, pages 83 and 88.

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

larceny03_0462