

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB729H1

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Ruff

3. Committee: Courts of Justice

4. Title: Damage to motor vehicles; catalytic converter; penalties.

5. Summary: The proposed legislation makes it a Class 6 felony for a person to commit larceny of a catalytic converter from a motor vehicle, regardless of the converter's value. The bill also makes it a Class 6 felony for a person to willfully break, injure, tamper with, or remove any part or parts of any vehicle, aircraft, boat, or vessel for the purpose of injuring, defacing, or destroying said vehicle, aircraft, boat, or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner, or to in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat, or vessel, when such violation causes damage to such vehicle, aircraft, boat, or vessel of \$1,000 or more. Current law makes such violation a Class 1 misdemeanor with no limit on the amount of damage. Under the bill, the penalty for damage of less than \$1,000 remains a Class 1 misdemeanor. The proposed legislation also establishes that for purchases of a catalytic converter or the parts thereof, a scrap metal purchaser will adhere to the compliance of certain specified provisions, and copies of the documentation required under such provisions will: (i) establish that the person from whom the scrap metal purchaser purchased the catalytic converter or the parts thereof had the lawful possession of such catalytic converter or the parts thereof at the time of sale or delivery; and (ii) detail the scrap metal purchaser's diligent inquiry into whether such person selling or delivering the catalytic converter or the parts thereof had a legal right to do so. The bill requires that such documentation be maintained by the scrap metal purchaser at his normal place of business or at another readily accessible and secure location for at least two years after the purchase, and that such copies be made available upon request to any law-enforcement officer, conservator of the peace, or special conservator of the peace, as appointed per existing law, in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during normal business hours.

6. Budget Amendment Necessary: Yes, Item 404.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: The Virginia Criminal Sentencing Commission (Commission) reports that data are insufficient to identify the number of larcenies in which a catalytic converter is stolen from a motor vehicle or the value associated with stolen converters. Therefore the Commission concludes that it is not known how many converter thefts would be subject to

the proposed Class 6 felony, nor the proportion of converter thefts which are subject to felony (\$1,000 value or more) versus misdemeanor conviction (less than \$1,000) under current law.

The Commission further states that if the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony larceny offenses under § 18.2-97, § 18.2-102, § 18.2-108.1, or § 18.2-109. In this respect, the Commission reports that according to Sentencing Guidelines data for FY 2020 and FY 2021, 15.6% of offenders convicted of Class 6 felony larcenies received a state-responsible (prison) term with a median sentence of 1.3 years. Another 48.8% received a local-responsible (jail) term for which the median sentence was 3.0 months. The remaining 35.6% did not receive an active term of incarceration to serve after sentencing.

Additionally, the Commission reports that according to General District Court Case Management System (CMS) for FY 2020 and FY 2021, 135 offenders were convicted of a Class 1 misdemeanor under § 18.2-146 for vandalizing a car, etc. In 45.9% of the cases, the offender received a jail term resulting in a median sentence of one month, but the amount of damage caused in the cases is not known. Therefore, the Commission states that it is not known how many of the offenders would be subject to proposed Class 6 felony for damage exceeding \$1,000. However, FY 2020-FY 2021 Sentencing Guidelines data indicate that offenders convicted of a Class 6 felony under § 18.2-137(B,ii) for vandalism of a property or monument causing damage of \$1,000 or more most often received a jail term (44.7% of cases). Only 20.0% of offenders convicted of this felony vandalism charge received a prison term (median sentence of 1.3 years).

For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

The fiscal impact on local law-enforcement agencies is unknown.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections; Law enforcement agencies; Commonwealth Attorneys; Courts; local jails.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to HB740H1.