

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: SB1296

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: DeSteph

3. Committee: Judiciary

4. Title: Grand larceny and certain property crimes; penalties.

5. Summary: Under current law, petit larceny is defined as taking goods and chattels valued at less than \$1,000 and is punishable as a Class 1 misdemeanor. This bill reduces the threshold for felony larceny and certain property crimes from \$1,000 to \$500. This bill requires that anyone convicted of a second larceny offense must be confined in jail not less than 30 days nor more than 12 months and establishes that a third larceny offense is punishable as a Class 6 felony.

6. Budget Amendment Necessary: Yes, Item 404.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

8. Fiscal Implications: This bill reduces the threshold for larceny offenses and reestablishes enhanced penalties for second and third convictions of misdemeanor larceny that were in effect prior to July 1, 2021. The Virginia Criminal Sentencing Commission (VCSC) reports that, according to fiscal year (FY) 2020 and FY 2021 Sentencing Guidelines data, when the specified penalties were last in effect, a felony conviction for petit larceny third offense (§ 18.2-104.01) was the primary (or most serious) offense in 2,376 sentencing events. More than half of the offenders (58.1 percent) were sentenced to a local-responsible (jail) term for which the median sentence was 3.0 months. Another 21.4 percent of the offenders received a state-responsible (prison) term with a median sentence of 1.3 years. The remaining 20.5 percent of offenders did not receive an active term of incarceration to serve after sentencing. In 92.7 percent of these sentencing events, the offender did not have any other felony convictions accompanying the petit larceny third offense. VCSC reports that, based on FY 2020 and FY 2021 General District Court Case Management System (CMS) data, 1,732 offenders were convicted of a misdemeanor for petit larceny second offense (§ 18.2-104.01). For the 58.7 percent of offenders who were given a jail term to serve, the median sentence was 20 days.

Because the bill increases existing larceny offenses from misdemeanor charges to felony charges, VCSC's data indicates that the bill is expected to have an impact on the future state-responsible prison bed space needs of the Commonwealth. Pursuant to §30-19.1:4 of the

Code of Virginia, VCSC estimates a fiscal impact of at least \$14,659,486. The amount is based on the projection that the legislation will result in 299 additional offenders being incarcerated in prison by FY 2029. Cost per prison bed was assumed to be \$48,958 per year as provided by the Department of Planning and Budget to VCSC pursuant to § 30-19.1:4. Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.

According to VCSC analysis, future need for local-responsible (jail) beds is also expected to increase as a result of decreasing the larceny threshold. The impact on local-responsible (jail) beds is estimated to be 205 beds by FY 2029. Estimated state costs associated with these beds is at least \$3,030,450; estimated local costs associated with these beds is at least \$4,753,361. The VCSC calculates these costs based on The Compensation Board's FY 2021 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$40.39 per day or \$14,752 per year. The local cost was calculated by using the daily expenditure cost of \$107.81 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$63.35 per day or \$ 23,139 per year. Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.

The estimates for jail and prison bed space needs provided by VCSC do not include the impact of reducing the felony threshold for grand larceny and many other property crimes from \$1,000 to \$500 because data are insufficient to identify individuals who would be eligible for felony prosecution under both aspects of the proposal (i.e., there is no clear way to avoid double counting these individuals in the impact estimate).

VCSC reports that the impact this bill would have on state and local community corrections resources would depend on how many offenders were required to serve supervised probation which cannot be estimated at this time.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails, Public Defenders offices, Commonwealth's Attorneys, courts

10. Technical Amendment Necessary: No

11. Other Comments: None