

Department of Planning and Budget 2015 Fiscal Impact Statement

1. Bill Number: HB 1975

House of Origin	<input checked="" type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Enrolled

2. Patron: Preston

3. Committee: House Courts of Justice

4. Title: Larceny penalty thresholds

5. Summary:

Virginia law makes a distinction between larceny from a person and larceny “not from a person of goods” or other property. If the offense is one of stealing property worth \$5 or more directly from a person, it is a felony with a sentence of one to twenty years in prison or up to twelve months in jail. For larceny not from a person, the law generally groups the offenses into two classifications, based on the value of the money or goods stolen. If that value is less than \$200, the offense is a Class 1 misdemeanor. However, a third, or subsequent, conviction is a Class 6 felony. If the value is more than \$200, the offense is a felony. The level of felony varies. Generally, it is declared to be a Class 6 felony, which carries a sentence of one to five years in prison or up to twelve months in jail. In other cases, it is an unclassified felony, with a sentence of one to twenty years in prison, or up to twelve months in jail.

The proposed legislation would raise the value of goods or other property stolen for numerous offenses from \$200 or more to \$500 or more in order for the larceny to qualify as a felony. It would not change the threshold of \$5 or more for larceny from a person and it would retain the provision that a third or subsequent conviction of larceny would be a Class 6 felony.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications:

The proposed legislation could have a wide-ranging fiscal impact, but the extent of that impact is indeterminable due to the lack of data. The effects would be felt in the following areas:

- Prison bed space—Because the legislation would reduce an offense that is now a Class 6 felony, the larceny of property valued at between \$200 and \$500, to a Class 1 misdemeanor, which does not involve a possible prison sentence, it could reduce the

number of offenders sentenced to prison. In 2012, the latest year for which data are available, 818 offenders, who had been sentenced only for a larceny offense involving a dollar threshold, were committed to the Department of Corrections (DOC). DOC estimates that approximately a quarter of those offenders were sentenced for an offense involving \$200 or more but less than \$500, offenses which would be reduced to misdemeanors in the proposed legislation. However, only about ten percent of that group had fewer than two prior larceny convictions and thus would have been misdemeanants rather than felons under the provisions of the proposed legislation and thus would not have been committed to prison. DOC projects that the annual prison bed savings that would result from the proposed legislation would range from 2 to 20 over the next six years. However, regardless of the number of offenders who would not be committed to prison as a result of the legislation, there would be no fiscal impact on DOC. There is currently a backlog of over 5,000 state responsible offenders now being held in jails due to the lack of bed space in prisons. Any prison beds that would be freed up due to the proposed legislation would be filled by DOC from offenders now being held in jails for other offenses.

- Jail per diem payments—The state reimburses localities \$4.00 per day for housing local responsible (misdemeanor) offenders and \$12 per day for housing state responsible (felony) offenders. By reducing what is now a felony offense to a Class 1 misdemeanor, the proposed legislation could result in more local offenders being held in jail and thereby increasing the per diem payments to localities. On the other hand, many state responsible offenders with relatively short sentences serve their entire sentences in jail and are never committed to DOC. It is likely that a percentage of those offenders would have been convicted of larceny of property valued at \$200-\$500 for which the state would be paying a per diem of \$4 under the provisions of the proposed legislation, rather than \$12 as it is now. In summary, there is not sufficient data to project the net effect on per diem payments.
- Criminal fund—The state will provide court-appointed counsel for defendants unable to afford one. These lawyers are paid from appropriations to the Criminal Fund, under which the payment for defense of a felony charge is higher than that for a misdemeanor. By reducing a felony offense to a misdemeanor, the proposed legislation could reduce Criminal Fund payments.
- Prior felony conviction—The Virginia Criminal Sentencing Commission has prepared sentencing guidelines, which judges may use in sentencing offenders. For many offenses, a prior felony conviction will serve to increase the recommended sentencing range. By reducing what is now a felony to a misdemeanor, the proposed legislation thus could result in shorter sentences in the future for some offenders with prior larceny convictions, thereby saving jail and prison bed space.

In addition, a prior felony conviction can serve as a “barrier crime”, formal and informal, for areas of employment. State laws and regulations prohibit the employment in several areas of anyone with a prior felony conviction. By reducing what is now a felony offense

to a misdemeanor, the proposed legislation could result in offenders being able to obtain employment in the future.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Compensation Board
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: Identical to HB 1996 and SB 1234.

Date: 1/23/2015

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