

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB 1550

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

2. Patron: Adams, L.R.

3. Committee: Passed both houses

4. Title: Larceny threshold amounts

5. Summary:

Current larceny and fraud statutes base the sentence or classification of the offense on the value of the property or money stolen or involved in the fraud. If the value is less than \$200 (petit larceny), the offense is a Class 1 misdemeanor, for which an offender is subject to a sentence of up to 12 months in jail. The sentence for offenses in which the value is \$200 or more varies with the statute. For grand larceny, the sentence can be up to 12 months in jail or 1 to 20 years in prison. Theft of something with a value of \$200 or more in other larceny and fraud statutes is designated as: a Class 6 felony (up to 12 months jail or 1 to 5 years in prison); Class 5 felony (up to 12 months in jail or 1 to 10 years in prison); or Class 4 felony (2 to 10 years in prison). Finally, a third or subsequent conviction of petit larceny is a Class 6 felony.

The proposed legislation would raise the lower larceny threshold from \$200 to \$500. In most circumstances, theft or fraud involving anything valued at less than \$500 would be a Class 1 misdemeanor. A third or subsequent conviction of petit larceny would remain a Class 6 felony under the provisions of the legislation.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Final. Indeterminate. See Item 8 below.

8. Fiscal Implications:

By reducing larceny offenses that are now felonies to misdemeanors, the proposed legislation would result in a reduction in costs for the state and, as a result, a reduction of revenue for local and regional jails. The lack of some data makes it difficult to estimate the fiscal impact of the proposed legislation. There is data readily available on the number of persons convicted of felony larceny/fraud, but information regarding the value of the larceny/fraud is limited.

A state-responsible inmate is one who has been convicted of a felony and sentenced to a year or more in prison. Any offender convicted of a misdemeanor, or a felony with a sentence of 12 months or less in jail, is a local-responsible offender and will serve his/her entire sentence in a local or regional jail, rather than prison. The state reimburses local and regional jails \$12 per day for housing state-responsible offenders; for local-responsible offenders, the reimbursement is \$4 per day. Although state-responsible offenders may be transferred to state facilities operated by the Department of Corrections (DOC), many of those with sentences between 12 months and 24 months serve their entire sentences in local and regional jails due to the lack of sufficient prison bed space. The jail receives a \$12 per diem payment from the state for each state responsible inmate, regardless of how long he/she is housed in the jail.

There are approximately 3,400 state-responsible inmates being held in jails that are eligible to be transferred to DOC, for which the state is reimbursing the jails \$12 per day. Under the provisions of the proposed legislation, some persons convicted of larceny, who would have been committed to DOC with a felony sentence, would be misdemeanants and serve their sentences in jails. This could free up beds in DOC correctional facilities and, consequently, DOC may be able to transfer more state-responsible offenders from jails.

The actual fiscal impact of the proposed legislation would be realized in a reduction of per diem costs that the state would pay to local and regional jails for housing larceny/fraud offenders. Under the proposed legislation, offenders who currently are state-responsible (convicted of a larceny or fraud of more than \$200 and less than \$500), for which the state would reimburse the jail \$12 per day would be misdemeanants instead, with a \$4 per day reimbursement. Finally, to the extent that current felony larceny/fraud offenders would be diverted from prison beds by the reduction in the larceny threshold, DOC could move other felony offenders from the jails, thereby reducing the amount of per diem reimbursement owed to the jails. However, due to the lack of data regarding the value of the goods or services involved in these felony larceny/fraud cases, it is not feasible to project a reasonable estimate of the amount of savings in per diem costs that the Commonwealth would realize from the proposed legislation.

The legislation also could have an impact on probation populations. Under current law, if a person is convicted of larceny of anything with a value of \$200 or more and the court suspends part or all of the sentence and places the offender on probation, it will be the state probation and parole district office operated by DOC that will have the responsibility of supervising him. Under the proposed legislation, those offenders convicted of larceny of anything with a value between \$200 and \$499 would be placed in local community probation programs instead of state programs.

Finally, the legislation would affect court dockets by shifting an undeterminable number of cases from circuit court dockets to general district court dockets.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections

Compensation Board
Local and regional jails
Circuit and district courts
Local community probation programs

10. Technical Amendment Necessary: None.

11. Other Comments: None.