



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1570

(Patron – Adams, L.R.)

LD#: 18105559

Date: 1/23/2018

Topic: Larceny threshold and certain property crimes

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000\*
- **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

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends numerous sections of the *Code of Virginia* relating to larceny, fraud, and other property crimes.

Under the proposal, the felony threshold for grand larceny and many other property crimes would increase from \$200 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. The penalty for larceny and other property crimes involving \$200 to \$499, under the proposal, would be reduced to a Class 1 misdemeanor and require a mandatory minimum term of confinement of 5 days.

In addition, the proposal defines new felonies relating to larceny. Under § 18.2-95, any person who, within a period of 90 days, commits more than one larceny involving less than \$500 arising out of separate incidents where the aggregate value of the goods is \$500 or more would be guilty of grand larceny punishable by imprisonment of up to twenty years. This aspect of the proposal would affect offenses currently punished as misdemeanors (i.e., involving less than \$200), which would be increased to felony larceny if multiple acts of larceny within 90 days reach an aggregate value of \$500 or more.

#### 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.<sup>1</sup> 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.<sup>2</sup> 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 accumulate 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.<sup>3</sup>

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### **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. However, the proposal defines a new felony that would affect offenses currently punished as misdemeanors (i.e., involving less than \$200). The net impact of the proposal on state-responsible (prison) bed space needs cannot be determined.

**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. Given this impact and the potential impact of the newly-defined felonies, 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 affect both local community corrections needs and state community corrections resources. The net impact of the proposal on community corrections programs cannot be determined.

**Virginia's sentencing guidelines.** No adjustment to the guidelines would be necessary under the proposal. However, the Sentencing Commission would closely monitor judicial response to the changes and, in the future, would recommend adjustments to the guidelines, if necessary.

**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.

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<sup>1</sup> Virginia Criminal Sentencing Commission, *2015 Annual Report*, page 81.

<sup>2</sup> Virginia Criminal Sentencing Commission, *2015 Annual Report*, page 87.

<sup>3</sup> Virginia Criminal Sentencing Commission, *2015 Annual Report*, pages 83 and 88.

**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.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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