

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB 280

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

2. Patron: Collins

3. Committee: House Courts of Justice

4. Title: Larceny first offenders

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. A third or subsequent conviction of petit larceny is a Class 6 felony.

The proposed legislation would provide courts with the authority to defer proceedings against first-time offenders in cases in which the value of the property involved was at least \$200 and less than \$1,000. Upon deferment, the offender would be placed on probation under the supervision of a community probation services agency, if there were one established in the jurisdictions served by the court. The conditions of the probation would include completion of all treatment and education programs or services the probation agency or court deemed best suited to the needs of the offender. The offender would be required to pay the costs of such treatment or education programs, based on his/her ability to pay.

If the offender violated any of the conditions of probation, the court could enter a judgment of guilt for the felony charge. If the offender fulfilled the terms and conditions of probation, the court would find the offender guilty of a Class 1 misdemeanor.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications:

By providing courts the authority to reduce larceny offenses that are now felonies to misdemeanors, the proposed legislation could result in a reduction in costs for the state and 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 for first-time offenders is lacking.

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, could have their offenses reduced to a misdemeanor and serve their sentences on probation. 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 \$1,000), for which the state would reimburse the jail \$12 per day could have their cases deferred and placed on probation. Finally, to the extent that current felony larceny/fraud offenders would be diverted from prison beds by the deferment of their cases, 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 first-time felony larceny/fraud cases and the uncertainty of how many cases would be deferred by the courts, 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, first-time offenders charged with larceny of anything with a value between \$200 and \$1,000 could be placed in local community probation programs instead of state programs.

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.