

## Department of Planning and Budget 2021 Fiscal Impact Statement

**1. Bill Number:** HB2334

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:** Fariss

**3. Committee:** Courts of Justice

**4. Title:** Damage to motor vehicles; penalties.

**5. Summary:** The proposed legislation makes it a Class 6 felony for a person to commit larceny of a catalytic converter from a motor vehicle, regardless of the converter's value. The bill also makes it a Class 6 felony for a person to willfully break, injure, tamper with or remove any part or parts of any vehicle, aircraft, boat or vessel for the purpose of injuring, defacing or destroying said vehicle, aircraft, boat or vessel, or temporarily or permanently preventing its useful operation, or for any purpose against the will or without the consent of the owner, or to in any other manner willfully or maliciously interfere with or prevent the running or operation of such vehicle, aircraft, boat or vessel, when such violation causes damage to such vehicle, aircraft, boat or vessel of \$1,000 or more. Current law makes such a violation a Class 1 misdemeanor with no limit on the amount of damage. Under the bill, the penalty for damage of less than \$1,000 remains a Class 1 misdemeanor.

**6. Budget Amendment Necessary:** Yes, Item 402.

**7. Fiscal Impact Estimates:** Preliminary (see Item 8 below).

**8. Fiscal Implications:** The Virginia Criminal Sentencing Commission (VCSC) reports that data are insufficient to identify the number of larcenies in which a catalytic converter is stolen from a motor vehicle or the value associated with stolen converters. Therefore, the VCSC reports that it is not known how many converter thefts would be subject to the proposed Class 6 felony, nor the proportion of converter thefts which are subject to felony (\$1,000 value or more) versus misdemeanor conviction (less than \$1,000) under current law. However, based upon their analysis, the VCSC states if the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony larceny offenses under § 18.2-97 (larceny of certain animals valued at less than \$1,000), § 18.2-102 (unauthorized use of a vehicle valued at \$1,000 or more), § 18.2-108.1 (receiving a stolen firearm), and § 18.2-109 (receipt or transfer of a stolen vehicle).

According to Sentencing Guidelines data from VCSC, for FY 2019 and FY 2020, 14.7% of offenders convicted of Class 6 felony larcenies received a state-responsible (prison) term with a median sentence of one year. Another 52.9% received a local-responsible (jail) term for which the median sentence was three months. The remaining 32.4% did not receive an active term of incarceration to serve after sentencing.

Additionally, VCSC reports that during FY 2019 and FY 2000, the threshold for felony (grand) larceny was \$500. Among offenders convicted of grand larceny (as the primary, or most serious, offense) during that time period, 29.5% were given a prison term with a median sentence of 1.8 years. An additional 42.3% were given a jail term with a median sentence of 3.3 months. Among offenders convicted of a Class 1 misdemeanor for petit larceny, approximately half received a jail term; the median sentence for these offenders was one month.

Furthermore, VCSC states that according to the General District Court Case Management System (CMS) for FY 2019 and FY 2020, 140 offenders were convicted of a Class 1 misdemeanor under § 18.2-146 for vandalizing a car, etc. In approximately half of these cases, the offender received a jail term (median sentence of one month). The amount of damage caused in the cases is not known; therefore, it is not known how many of the offenders would be subject to proposed Class 6 felony for damage exceeding \$1,000. However, FY 2019-FY 2020 Sentencing Guidelines data indicate that offenders convicted of a Class 6 felony under § 18.2-137(B, ii) for vandalism of a property or monument causing damage of \$1,000 or more most often received a jail term (46.8% of cases) with a median sentence of six months. Only 15.2% of offenders convicted of this felony vandalism charge received a prison term (median sentence of one year).

Due to the lack of data, VCSC has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 56, 2020 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

There is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanant or otherwise local-responsible prisoner held in a jail and \$12.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

According to the Department of Juvenile Justice (DJJ), the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined, and DJJ also reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections; Department of Juvenile Justice; Local and regional jails; Courts; Commonwealth Attorneys; Public Defenders.

- 10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.