

## Department of Planning and Budget 2023 Fiscal Impact Statement

**1. Bill Number:** SB896

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron:** McDougale

**3. Committee:** Judiciary

**4. Title:** Racketeering offenses; penalty.

**5. Summary:** Adds petit larceny to the list of offenses included in the definition of "racketeering activity." The bill prohibits any person who is directed by an organizer, supervisor, or manager of an enterprise from (i) receiving or distributing any proceeds or anything of value known to have been derived directly from racketeering activity and (ii) using or investing an aggregate of \$10,000 or more of such proceeds or such things of value in the acquisition of any title to, or any right, interest, or equity in, real property, or in the establishment or operation of any enterprise. A first offense is punishable by between five and 40 years' imprisonment and a fine of not more than \$1 million, and a second or subsequent offense is punishable as a Class 2 felony and a fine of not more than \$2 million.

Current law criminalizes an enterprise or any person who occupies a position of organizer, supervisor, or manager of an enterprise for (a) receiving proceeds from racketeering and (b) using or investing \$10,000 or more of such proceeds in the acquisition of any title to, or any right, interest, or equity in, real property, or in the establishment or operation of any enterprise.

**6. Budget Amendment Necessary:** Yes, Item 404.

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

**8. Fiscal Implications:** Penalties for racketeering specified in § 18.2-515 (criminal penalties; forfeiture) would apply to petit larceny (as defined by § 18.2-96) under the proposal. The proposal also amends § 18.2-514 to expand the individuals who may be subject to racketeering charges from organizers, supervisors or managers of an enterprise to include any individuals who commit RICO violations at the direction of an organizer, supervisor or manager of an enterprise. The bill also amends § 18.2-514 to include not only receiving proceeds but also distributing proceeds or anything else of value derived from racketeering activity. A first offense is punishable by imprisonment of 5 to 40 years and a fine of up to \$1 million, while a second or subsequent offense is punishable as a Class 2 felony and a fine of up to \$2 million.

According to the Virginia Criminal Sentencing Commission (VCSC), there is insufficient data to estimate the number of new convictions as a result of the proposed legislation. However, offenders of the proposal may be sentenced similarly to those who have been convicted under existing provisions. Between FY 2017 and FY 2022, 115 offenders were convicted of racketeering violations. A violation of racketeering was the primary, or most serious, offense at sentencing for 89 of these offenders. 91 percent of these offenders received a state-responsible (prison) term for which the median sentence was 3.5 years.

Due to the lack of data, the Virginia Criminal Sentencing Commission 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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Courts, Public Defender's Office, local and regional jails, Commonwealth Attorney's Office, law enforcement agencies.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.