



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 51 (Patron – Fariss)

LD#: 22102767

Date: 12/16/2021

Topic: Larceny of catalytic converters

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 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal adds § 18.2-97.2 to the *Code of Virginia* to make larceny of a catalytic converter from a motor vehicle a Class 6 felony regardless of the converter's value.

Currently, larceny (not from a person) involving \$1,000 or more is an unclassified felony and is punishable by imprisonment of 1 to 20 years (§ 18.2-95), while larceny involving less than \$1,000 is a Class 1 misdemeanor (§ 18.2-96). From July 1, 2018, through June 30, 2020, the threshold for felony larceny was \$500. Fiscal Year 2021 saw an increase in this threshold to \$1,000. Certain larceny offenses, such as those defined in § 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) are punishable as Class 6 felonies.

The proposal also increases the penalty for vandalizing a vehicle, aircraft or boat (§ 18.2-146) from a Class 1 misdemeanor to a Class 6 felony if the vandalism causes damage of \$1,000 or more.

Analysis:

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, 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. 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, § 18.2-102, § 18.2-108.1, or § 18.2-109.

According to Sentencing Guidelines data for FY2020 and FY2021, 20.0% of offenders convicted of Class 6 felony larcenies received a state-responsible (prison) term with a median sentence of 1.3 years. Another 44.7% received a local-responsible (jail) term for which the median sentence was six months. The remaining 35.3% did not receive an active term of incarceration to serve after sentencing.

In FY2020, the threshold for felony larceny was \$500. Analysis of this fiscal year indicates that there was a total of 1,085 cases in which the offender was sentenced for felony larceny as the primary offense. These offenders were most likely to receive a local-responsible jail sentence (44.1%) with a median sentence of 3.2 months. Another 27.8% of offenders were sentenced to state-responsible prison terms with a median sentence of 1.9 years. Further, 28.0% of offenders were not given an active term of incarceration after sentencing. Starting in FY2021, the threshold for felony (grand) larceny was increased to \$1000. Analysis of this fiscal year indicates that there was a total of 789 cases in which the offender was sentenced for felony larceny as the primary offense. These offenders were most likely to receive a local-responsible jail sentence (41.2%) with a median sentence of three months. An additional 27.6% of offenders were sentenced to state-responsible prison terms with a median sentence of 1.5 years. Further, 31.2% of offenders were not given an active term of incarceration after sentencing. Among offenders convicted of grand larceny (as the primary, or most serious, offense) across the past two-year time period, 27.7% were given a state-responsible prison term with a median sentence of 1.75 years. An additional 42.9% were given a jail term with a median sentence of three months. The remaining 29.3% of offenders whose primary offense was grand larceny did not receive an active term of incarceration to serve after sentencing.

According to General District Court Case Management System (CMS) for FY2020 and FY2021, 135 offenders were convicted of a Class 1 misdemeanor under § 18.2-146 for vandalizing a car, etc. In 45.9% of the cases, the offender received a jail term resulting in a 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, as mentioned previously, FY2020-FY2021 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 (44.7% of cases) with a median sentence of six months. Only 20.0% of offenders convicted of this felony vandalism charge received a prison term (median sentence of 1.3 years).

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates two new Class 6 felonies, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of offenders who would be convicted of the proposed felonies. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By creating new felony offenses, the proposal may increase local-responsible (jail) bed space needs. As the number of new convictions resulting from the proposal cannot be estimated, the impact on jail bed space needs cannot be determined.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's Sentencing Guidelines. As new felonies, convictions under the proposed § 18.2-97.2 and the amended § 18.2-146 would not be covered by the Sentencing Guidelines when such an offense is the primary, or most serious, offense in a case. However, convictions under these provisions could augment the Guidelines recommendation if the most serious offense at sentencing is covered by the Guidelines. If the proposal were enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns under the new provision to determine the feasibility of adding the new felonies to the Guidelines system.

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.

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.

Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4 of the Code of Virginia, 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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