

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: SB729S2

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|-----------------|--------------------------|--------------|-------------------------------------|------------|--------------------------|-----------|
| House of Origin | <input type="checkbox"/> | Introduced | <input type="checkbox"/> | Substitute | <input type="checkbox"/> | Engrossed |
| Second House | <input type="checkbox"/> | In Committee | <input checked="" type="checkbox"/> | Substitute | <input type="checkbox"/> | Enrolled |

2. Patron: Ruff

3. Committee: Conference Committee

4. Title: Damage to motor vehicles; catalytic converter; penalties.

5. Summary: The proposed legislation amends § 18.2-146 to increase the penalty for vandalizing a vehicle, aircraft, or boat (§ 18.2-146) from a Class 1 misdemeanor to a Class 6 felony if the violation involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof. The bill further specifies that a prosecution or proceeding for a felony under § 18.2-146 is a bar to a prosecution or proceeding under § 18.2-137 (vandalism, damage property) for the same act. The bill also requires a scrap metal purchaser, for purchases of a catalytic converter or the parts thereof, to adhere to certain compliance provisions, as specified, and also that copies of the documentation required under specified subdivisions must: (i) establish that the person from whom the scrap metal purchaser purchased the catalytic converter or the parts thereof had the lawful possession of such catalytic converter or the parts thereof at the time of sale or delivery; and also (ii) provide detail pertaining to the scrap metal purchaser's diligent inquiry into whether such person selling or delivering the catalytic converter or the parts thereof had a legal right to do so. The bill specifies that such documentation must be maintained by the scrap metal purchaser at his normal place of business or at another readily accessible and secure location for at least two years after the purchase and that such copies shall be made available upon request to any law-enforcement officer, conservator of the peace, or special conservator of the peace appointed pursuant to § 19.2-13 (Special conservators of the peace) in the performance of his duties who presents his credentials at the scrap metal purchaser's normal business location during normal business hours.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: The Virginia Criminal Sentencing Commission (Commission) reports that data are insufficient to identify the number of crimes involving the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof.

However, the Commission further states that if the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony offenses under § 18.2-137. In this respect, the Commission reports that FY 2020-FY 2021 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). Only 20.0% of offenders convicted of this felony vandalism charge received a prison term (median sentence of 1.3 years).

For someone convicted of a Class 6 felony, a judge has the option of sentencing the offender to a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

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 misdemeanor 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

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 552, 2021 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; Law enforcement agencies; Commonwealth Attorneys; Courts; local jails.

10. Technical Amendment Necessary: No.

11. Other Comments: This bill is identical to HB740H2.