

Department of Planning and Budget 2021 Fiscal Impact Statement

1. Bill Number: HB2290

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

2. Patron: Plum

3. Committee: Courts of Justice

4. Title: Punishment for conviction of second or subsequent misdemeanor larceny; repeal.

5. Summary: Under current law, when a person is convicted of an offense of larceny or any offense deemed to be or punished as larceny under any provision of the Code of Virginia, and it is alleged in the warrant, indictment or information on which he is convicted, and admitted, or found by the jury or judge before whom he is tried, that he has been previously convicted in the Commonwealth of Virginia or in another jurisdiction for any offense of larceny or any offense deemed or punishable as larceny, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions were misdemeanors, felonies or a combination thereof, he must be confined in jail not less than thirty days nor more than twelve months. A third, or any subsequent offense, is punishable as a Class 6 felony. This bill repeals these provisions.

6. Budget Amendment Necessary: Indeterminate

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

8. Fiscal Implications: By repealing penalties currently associated with § 18.2-104 (Punishment for conviction of misdemeanor larceny), the proposed legislation is expected to reduce the number of offenders who would be sentenced to terms in state prisons and local jails.

According to FY 2019 and FY 2020 Sentencing Guidelines data, provided by the Virginia Criminal Sentencing Commission (VCSC), 2,008 offenders were convicted of a second petit larceny charge in violation of § 18.2-104, which is punishable by at least 30 days but no more than 12 months in jail, during the two-year period. This charge was the primary, or most serious, offense in 141 cases. While 40.1 percent of these offenders did not receive an active term of incarceration to serve after sentencing, 59.9 percent were sentenced to local-responsible (jail) terms for which the median sentence length was 1.0 months.

Sentencing Guideline data also show that, during FY 2019 and FY 2020, 2,770 offenders were convicted of a third or subsequent petit larceny charge in violation of § 18.2-104, which is punishable as a Class 6 felony. This charge was the primary, or most serious, offense in 867 cases. Of these cases, 18.3 percent did not receive active terms of incarceration and 57.0

percent were sentenced to local-responsible (jail) terms for which the median sentence length was 3.0 months. For the remaining 24.7 percent of offenders sentenced to serve state-responsible (prison) terms, the median sentence length was 1.5 years.

The potential savings associated with repealing these offenses depends on how many offenders would have been sentenced to a state-responsible (prison) term and where those offenders would ultimately serve their sentences. The cost of a bed in a DOC facility (prison) in FY2020 was \$38,688 as calculated by the Department of Planning and Budget. The Commonwealth pays localities \$12.00 a day for any state-responsible prisoner held in a local jail.

For offenders who would have been sentenced to local-responsible (jail) terms of incarceration, the Commonwealth would pay the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. The Commonwealth also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs 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.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and regional jails, Department of Juvenile Justice, Courts, Commonwealth's Attorneys, Public Defenders Office

10. Technical Amendment Necessary: No

11. Other Comments: None