



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 939 Amendment in the Nature of a Substitute (Patron prior to substitute – Salim)

LD#: 25106095

Date: 01/27/2025

Topic: Mail theft

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined** • Juvenile Detention Facilities: Cannot be determined** <p>**Provided by the Department of Juvenile Justice</p>
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* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, 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 § 18.2-110.1 to the *Code of Virginia*, relating to mail theft. The proposal would make it a Class 6 felony to:

- Knowingly and willfully take, destroy, hide, or embezzle mail;
- Obtain mail by fraud or deception;
- Buy, receive, conceal, or possess mail known to be unlawfully taken;
- Buy, etc., any key or device designed to access mail receptacles; or
- Open, vandalize, damage, etc., mail receptacle with the intent to steal mail.¹

“Mail” is defined as any letter, parcel, package, or other material with postage affixed, accepted by the postal service, left for the postal service to collect, or delivered to a postal customer. “Postal service” is defined as the United States Postal Service or delivery service. Lastly, “Delivery service” is defined as having the same meaning under § 18.2-246.6. “Delivery service” does not include the United States Postal Service.

Analysis:

¹ The proposed felony would be eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders serve a minimum of 67% of the sentence ordered by the court.

Existing data sources do not contain sufficient detail to identify the number of individuals who would be impacted by the proposal. However, individuals convicted of the proposed felony may be sentenced similarly to offenders currently convicted of Class 6 felony larceny offenses.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2023 and FY2024, 316 defendants were convicted of a larceny offense punishable as a Class 6 felony. Just over one-third (34.8%) were sentenced to probation without an active term of incarceration, 48.4% were given a local-responsible (jail) term, and 16.8% received a state-responsible (prison) term. The median sentence for those receiving a local jail term was 3.0 months; the median sentence for those receiving a state prison term was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Available data are insufficient, however, to identify the number of defendants who may be convicted of the proposed felony or to estimate the number of new state-responsible sentences that may result from enactment of the proposal. Thus, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be quantified.

Adult community corrections programs. 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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be estimated.

Virginia's Sentencing Guidelines. As a new felony, convictions for the proposed offense initially would not be covered by the Sentencing Guidelines as the primary (or most serious) offense. Such convictions, however, could augment the Guidelines recommendation as additional offenses if the most serious offense at sentencing is covered by the Guidelines. The proposed felony would not be defined as violent under § 17.1-805(C) for Guidelines purposes. No immediate adjustment to the Guidelines would be necessary under the proposal. If the proposal is enacted, the Sentencing Commission in the future would conduct analyses to determine the feasibility of adding the new felony 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, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.