

# HOUSE BILL REPORT

## HB 1150

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### As Reported by House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to mail theft and destruction.

**Brief Description:** Establishing the crime of mail theft or receipt of stolen mail.

**Sponsors:** Representatives Lovick, Ballasiotes, O'Brien, Kagi, Haigh, Ahern, Simpson, Grant, Campbell, Keiser, Benson, Bush, Conway and Esser.

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/2/01, 2/7/01 [DPS].

#### Brief Summary of Substitute Bill

- Obstruction of mail is a gross misdemeanor.
- Destruction of letter boxes is a class 1 civil infraction.
- Destruction of mail is a seriousness level I, class C felony.
- Theft or receipt of stolen mail is a seriousness level II, class C felony.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Ahern, Republican Vice Chair; Lovick, Democratic Vice Chair; Cairnes, Kagi, Kirby and Morell.

**Staff:** Yvonne Walker (786-7841).

### Background:

Washington has a theft statute that punishes a person based upon the value of the property stolen. However, the state does not have a criminal statute specifically relating to obstruction, destruction, or theft of mail. Federal law governing the postal service

contains laws prohibiting these types of crimes.

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**Summary of Substitute Bill:**

A new section is added to the Washington Criminal Code, creating four new crimes: obstruction of delivery of mail, destruction of letter boxes, destruction of mail, and theft or receipt of stolen mail. Three defenses to prosecution, each based upon the defendant having an honest basis to act, are set forth. These defenses include:

- (1) the defendant was unaware that the property was that of another person;
- (2) the defendant reasonably believed that the defendant was entitled to the property involved or had a right to acquire or dispose of it as the defendant did; or
- (3) the property involved was that of the defendant's child or spouse, unless the parties were not living together as husband and wife and were living in separate residences at the time of the alleged offense.

**Adult mail crimes.** A person who intentionally or unreasonably obstructs the passage of mail or a carrier or conveyance carrying the mail is guilty of a gross misdemeanor. A person who knowingly and maliciously tears down, destroys, breaks open a letter box or destroys a letter box is guilty of a class 1 civil infraction. A gross misdemeanor carries a maximum sentence of one year of incarceration or a fine of \$5,000 or both.

A person who knowingly and maliciously commits the crime of destruction of mail by destroying or defacing the mail of another is guilty of a seriousness level I, class C felony.

A person who knowingly commits theft or receives stolen mail is guilty of a seriousness level II, class C felony. Theft or receipt of stolen mail includes taking by fraud or deception, secreting, or embezzling mail of another or taking by fraud or deception mail of another that has been left for collection on or adjacent to an authorized depository or mail receptacle. A class C felony carries a maximum sentence of five years of incarceration, a fine of \$10,000, or both.

**Juvenile mail crimes.** A juvenile who knowingly commits mail theft or receives stolen mail is guilty of a class C offense. A juvenile who knowingly and maliciously destroys mail is guilty of a class D offense. A first time offender committing either crime will receive a sentence involving a local sanction.

**Substitute Bill Compared to Original Bill:**

The penalty for destruction of letter boxes is reduced from a gross misdemeanor to a class 1 civil infraction.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** The problem with mail theft is how do you put a value on a piece of mail? Currently, the theft statutes are based on the value of the stolen property and the value of a piece of mail (the envelope and piece of paper) would just be worth pennies.

In addition, people are now buying mail by the pound and the stealing of mail is what normally leads to another crime called identity theft.– When an offender steals mail they primarily use the stolen mail for two reasons: 1) to gain a person's identity; or 2) to cash checks on their bank account. As a result, before a victim can figure out what's going on, checks have been cashed on their account or new accounts have been opened up using their personal identification.

This a great bill and a bill that the state needs but it is only one bill out of a comprehensive package of identity theft bills that will be introduced during session this year.

**Testimony Against:** None.

**Testified:** Tom McBride, Washington Association of Prosecuting Attorneys; Jan Gee, Washington Retail Association; and Mellain Hughes, Association of Washington Business.