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## **Criminal Justice & Corrections Committee**

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### **ESB 5459**

**Brief Description:** Establishing crimes relating to mail.

**Sponsors:** Senators Roach, Kline, Rasmussen and Winsley.

#### **Brief Summary of Engrossed Bill**

- Obstruction of mail is a gross misdemeanor.
- Destruction of letter boxes is a class gross misdemeanor.
- 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.

**Hearing Date:** 2/20/02

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

#### **Background:**

Washington has a theft statute that punishes a person based upon the value of the property stolen.

For example, theft in the first degree, a seriousness level II, class B felony, occurs when a person commits theft of property or services valued in excess of \$1,500. Theft in the second degree, a seriousness level I, class C felony, occurs when a person commits theft of property or services valued in excess of \$250, but not exceeding \$1,500. Theft in the third degree, a gross misdemeanor offense, occurs when a person commits theft of property or services valued less than \$250.

Washington, 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.

#### **Summary of 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.

*Mail Crimes committed by Adults:*

Obstruction of mail is committed when a person intentionally or unreasonably obstructs the passage of mail or a carrier or conveyance carrying the mail. Obstruction of mail is a gross misdemeanor.

Destruction of letter boxes is committed when a person knowingly and maliciously tears down, destroys, or breaks open a letter box. Destruction of a letter box is a gross misdemeanor. A gross misdemeanor carries a maximum sentence of one year of incarceration, a fine of \$5,000, or both.

Destruction of mail is committed when a person knowingly and maliciously injures, destroys, or defaces mail of another that has been deposited in an authorized depository. Destruction of mail is a seriousness level I, class C felony. A first time offender, without any previous criminal history, would receive a presumptive sentence of zero to 60 days in jail.

Mail theft or receipt of stolen mail is committed when a person:

- Takes, or by fraud or deception, obtains mail of another from a mail receptacle, authorized depository, or mail carrier;
- Secretes, embezzles, or destroys mail of another;
- Takes, or by fraud or deception, obtains mail of another that has been left for collection on or adjacent to an authorized depository or mail receptacle; or
- Buys, receives, conceals, or unlawfully possesses mail of another knowing that the mail was taken, obtained, or embezzled.

Mail theft or receipt of stolen mail is a seriousness level II, class C felony. A first time offender, without any previous criminal history, would receive a presumptive sentence of zero to 90 days in jail.

*Mail Crimes committed by Juveniles:*

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.

Local sanctions can include up to: 30 days of confinement, 12 months of community supervision, 150 hours of community service, and a \$500 fine.

**Appropriation:** None.

**Fiscal Note:** Requested on February 19, 2002.

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