

# HOUSE BILL REPORT

## ESSB 5074

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### As Reported By House Committee On:

Criminal Justice & Corrections

**Title:** An act relating to crimes related to mail.

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

**Sponsors:** Senate Committee on Judiciary (originally sponsored by Senators Roach, Honeyford, T. Sheldon, Johnson and Rasmussen).

### Brief History:

#### Committee Activity:

Criminal Justice & Corrections: 2/25/00 [DPA].

#### Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

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

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

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

### Background:

Washington has a theft statute that punishes someone based upon the value of the property stolen. However, the states do not have a criminal statute specifically relating to obstruction or theft of mail. Federal law governing the postal service contains laws prohibiting these types of crimes. However, given limited resources, the federal authorities cannot prosecute all violations of these statutes, and as a result, unless the violation has a significant impact, the offender will not be subject to any criminal penalties.

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**Summary of Amended 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 and reasonable basis to act, are set forth. These defenses include that:

- (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 abodes at the time of the alleged offense.

Adults. Obstruction of mail and destruction of letter boxes is a gross misdemeanor and carries a maximum sentence of one year of incarceration or a fine of \$5,000, or both.

Destruction of mail is a seriousness level I, class C felony and carries a maximum sentence of five years of incarceration or a fine of \$10,000, or both.

Theft or receipt of stolen mail is a seriousness level II, class C felony and carries a maximum sentence of five years of incarceration or a fine of \$10,000, or both.

Juveniles. Mail theft or receipt of stolen mail is a class C offense. Destruction of mail is a class D offense.

**Amended Bill Compared to Engrossed Substitute Bill:** The crime of mail theft has been consolidated into one crime classified as a seriousness level II, class C felony to conform with the federal statute. In addition, the rebuttable presumption is deleted that assumed that when a person has, in his or her possession or control, mail of another addressed to two or more different addresses, and the addresses are not the

residence or business of the person, then he or she is presumed to know that the mail is stolen.

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**Appropriation:** None.

**Fiscal Note:** Requested on February 17, 2000.

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

**Testimony For:** Mail that is delivered often contains receipts and credit card account numbers and other pieces of information that can be used to wipe out someone's life. In addition, over the last year, stolen identity has been a big issue in this state and it usually begins with mail theft. One way that offenders are getting away with this is by submitting change of address cards to the post office. This is an easy way of having mail diverted directly to them. This bill is a first step to attacking identity theft.

In addition, destruction of mail boxes has been an increasing problem especially out in rural areas. This is a problem that is expensive and is not funny. Kids need to know that if they commit one of these crimes that they will be punished.

**Testimony Against:** The rebuttable presumption in the bill is a big problem. This added statement in the bill shifts the burden of proof from the prosecution to the defense.

The juvenile section of this bill is also a problem. It is hard to think that if a juvenile were to commit a mail theft or mail destruction crime that such crime would follow them for the rest of their life. As a juvenile gets older and when they are asked whether they have ever been convicted of a crime then they would have to answer yes. A bill in the House Judiciary Committee is trying to fix this problem but it has not passed out of committee yet.

**Testified:** (In support) Senator Roach, prime sponsor; and Jan Gee, Washington Retail Association.

(Opposed) Sherry Appleton, Washington Defenders' Association/Washington Association of Criminal Defense Lawyers.