



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 552
Engrossed
(Patron Prior to Engrossment – Stolle)

LD#: 06-1314820

Date: 2/10/2006

Topic: Orders regarding human biological evidence

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal adds § 18.2-471.1 relating to orders regarding human biological evidence. Under the statute, any clerk of court or other public official who willfully violates orders entered pursuant to § 19.2-270.4:1 (destruction of human biological evidence) is guilty of a Class 6 felony. Procedures for the storage, preservation and retention of human biological evidence in felony cases are outlined in § 19.2-270.4:1. Circuit court clerks or other governmental entities in custody of human biological evidence are required to transfer the evidence over to the Department of Forensic Science for storage and preservation. However, § 19.2-270.4:1 does not specify consequences for the willful violation of an order pursuant to § 19.2-270.4:1 by the court clerk or public official.

Currently, under subsection B of § 18.2-462, it is a Class 6 felony for any person to conceal, alter, dismember, or destroy any item of physical evidence with intent to delay, etc., prosecution of a felony offense. Furthermore, it is a Class 1 misdemeanor for a clerk of court or other public official to fraudulently destroy any record in his keeping (§ 18.2-472).

Analysis:

According to fiscal year (FY)2002 and FY2003 Pre/Post-Sentence Investigation (PSI) data, there were no convictions during the time period for felony destruction of physical evidence under subsection B of § 18.2-462. Based on FY2003 and FY2004 Local Inmate Data System (LIDS) data, there were two cases involving convictions under § 18.2-472, fraudulent destruction of records by a clerk of court or other public official. Both offenders received a local-responsible (jail) term; one was sentenced to 5 days and the other to 8 days of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. Because the proposal adds a new felony offense to the *Code*, the proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth, but the magnitude of that impact is likely to be small.

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

Adult community corrections programs. The proposal may have an impact on adult community corrections programs, but the magnitude of that impact cannot be quantified.

Virginia's sentencing guidelines. A crime under § 18.2-471.1 would not be covered by the sentencing guidelines as the primary (or most serious) offense in a sentencing event. However, convictions under § 18.2-471.1 may augment the guidelines recommendation as additional offenses. No adjustment to Virginia's sentencing guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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 and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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