



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 999

(Patron – Quayle)

LD#: 09-6734308

Date: 12/17/2008

Topic: Illegal gambling

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined (likely to be negligible)
- **Local Adult Correctional Facilities:**
Cannot be determined (likely to be negligible)

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

Summary of Proposed Legislation:

The proposal amends § 18.2-325 of Title 18.2, Chapter 8, Article 1 of the *Code of Virginia* to redefine the term “illegal gambling”. Currently, “illegal gambling” means the placing of any bet or wager to win a prize, dependent upon the result of a game or any other event the outcome of which is uncertain or a matter of chance. The proposal modifies the current definition by replacing the phrase “a matter of chance” with “contains any element of chance”.

Currently, the operator of an illegal gambling operation is guilty of a Class 6 felony under § 18.2-328; however, the operator of any such enterprise which (i) has been in continuous operation for more than thirty days or (ii) has gross revenue of \$2,000 or more in any single day is subject to imprisonment of 1 to 10 years and a fine up to \$20,000. It is a Class 1 misdemeanor for any owner, tenant or other occupant of any place or conveyance to knowingly allow illegal gambling (§ 18.2-329), for any person or association to knowingly aid or assist in an illegal gambling operation (§ 18.2-330), or for any person to possess a gambling device used in unlawful gambling activity (§ 18.2-331). Any person who illegally gambles is guilty of a Class 3 misdemeanor, punishable by a fine only (§ 18.2-326); however, any person who wins by fraud or cheating while gambling may receive a fine of 5 to 10 times the value of his/her winnings (§ 18.2-327). Any person who fraudulently enters a participant (man, animal, fowl, or vehicle) in a contest of speed or skill is also guilty of a Class 3 misdemeanor (§ 18.2-333).

Analysis:

According to fiscal year (FY) 2006 and FY2007 Pre/Post-Sentence Investigation (PSI) data, seven offenders were convicted of a felony under § 18.2-328 for operating an illegal gambling operation; all seven were sentenced to probation.

According to calendar year (CY) 2006 and CY2007 General District Court Automated Information System (CAIS) data, 30 offenders were convicted of Class 1 misdemeanors under §§ 18.2-329, 18.2-330, and 18.2-331. Of these, three received a jail sentence with terms of 25 days, 50 days, and 9 months, respectively. The remaining offenders were given no term of incarceration to serve after sentencing. Additionally, 90 offenders were convicted of offenses punishable by a fine only under §§ 18.2-326, 18.2-327, and 18.2-333.

Impact of Proposed Legislation:

State adult correctional facilities. By redefining “illegal gambling,” the proposal expands the nature of an existing felony defined in § 18.2-328. This could increase the future state-responsible (prison) bed space needs of the Commonwealth. According to available data, however, there have only been seven felony convictions during a recent two-year period under the existing provision and none of the offenders convicted of this crime received a prison sentence. While the number of additional felony convictions that may result from the proposal cannot be quantified, the impact of the proposal on prison beds is likely to be negligible.

Local adult correctional facilities. Similarly, the proposal could increase the future local-responsible (jail) bed space needs of the Commonwealth. Available data reveal that only 10% of offenders convicted of a Class 1 misdemeanor gambling offense received an active term of incarceration to serve after sentencing. While the impact of the proposal cannot be quantified, it is likely to be negligible.

Adult community corrections resources. By expanding an existing felony, the proposal may increase the need for state community corrections resources. Nonetheless, the impact is likely to be negligible.

Virginia’s sentencing guidelines. None of the convictions affected by the proposal are covered by the sentencing guidelines as the primary (most serious) offense in a case; however, convictions for any of these crimes may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be 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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