

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: HB 244

House of Origin	<u> X </u>	Introduced	<u> </u>	Substitute	<u> </u>	Engrossed
Second House	<u> </u>	In Committee	<u> </u>	Substitute	<u> </u>	Enrolled

2. Patron: Janis

3. Committee: House Courts of Justice

4. Title: Contraband and certain conduct in prisons

5. Summary:

Under current law, it is a Class 1 misdemeanor for anyone to deliver, or attempt to deliver, any item to an inmate in jail or prison without first getting the permission of the official in charge of the facility. The proposed legislation would expand the provision to prohibit any prisoner confined in a local or state correctional facility from bringing any item into the facility without first getting the permission of the person in charge of the facility. The new provision would also be a Class 1 misdemeanor.

Furthermore, the proposed legislation expands the penalty for certain prohibited conduct of prisoners in state, local, and community correctional facilities. Currently, it is a Class 6 felony for such a prisoner to engage in any of the following activities:

- Make, procure, or have an unauthorized knife or other thing capable of causing death or bodily injury;
- Possess, or introduce into a correctional facility, firearms or ammunition;
- Burn or destroy by use of an explosive device any personal property in a correctional facility; and
- Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system or equipment in a correctional facility.

The proposed legislation would elevate these offenses to Class 3 felonies. It would also expand the offense related to explosive devices to include procuring, selling, secreting, or possessing such devices within a correctional facility.

6. Fiscal Impact Estimates: Preliminary. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$266,735	General
2012	\$0	
2013	\$0	
2014	\$0	
2015	\$0	
2016	\$0	

7. Budget Amendment Necessary: Yes. Item 380.

8. Fiscal Implications:

The various categories of offenses listed in the proposed legislation have the following penalties:

- Class 1 misdemeanor—up to twelve months in jail;
- Class 6 felony—up to twelve months in jail or, at the court’s option, one to five years in prison;
- Class 3 felony—at least five years and no more than 20 years in prison.

By creating a new Class 1 misdemeanor offense, the legislation could result in additional persons confined in local and regional jails. By expanding Class 6 felony offenses to Class 3 felony offenses, the legislation could result in additional persons confined in prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails’ operating costs, e.g. correctional officers. The state’s share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board’s most recent Jail Cost Report (November 2009), the estimated total state support for local jails averaged \$32.66 per inmate, per day in FY 2008.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$266,735 (the highest annual cost over the next six years).

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/9/2010 dpb

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