



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 320

(Patron – Ruff)

LD#: 10100984

Date: 12/15/2009

Topic: False reports to law enforcement

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$2,896,708 (105 beds)
- **Local Adult Correctional Facilities:**
-\$2,716,999 (-249 beds)
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
\$95,282
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

This proposal amends § 18.2-461 to increase the penalty for falsely summoning or giving a false report to a law enforcement official from a Class 1 misdemeanor to a Class 6 felony. Currently, falsely summoning or giving a false report to law enforcement is a Class 1 misdemeanor.

There have been no amendments since 1996, when subsection ii (relating to interference with the operations of any law-enforcement official) was added.

Analysis:

According to the Local Inmate Data System (LIDS), which contains information on all persons entering and exiting local and regional jails in Virginia, 581 offenders held in jail were convicted in CY2007 and CY2008 of a Class 1 misdemeanor under § 18.2-461 for giving a false report to police. Nearly all of the offenders held pre- or post-trial in jail received an active term of incarceration (96%) for the offense. The median jail sentence was 30 days. However, 25 of the 581 offenders were given the maximum sentence permitted under current law (12 months). LIDS data do not capture offenders who were never booked into a local or regional jail.

According to the Department of Juvenile Justice, in fiscal year (FY) 2009, Court Services Units reported that there were 165 juvenile intakes involving violations of § 18.2-461.

Impact of Proposed Legislation:

State adult correctional facilities. By raising the penalty from a misdemeanor to a felony, the proposal is expected to increase the need for state-responsible (prison) beds. The impact is estimated to be 105 beds by 2016. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$2,896,708.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY11	FY12	FY13	FY14	FY15	FY16
39	76	91	97	101	105

Local adult correctional facilities. Because some offenders would receive a prison sentence instead of a jail sentence, the proposal is expected to decrease jail bed space needs. The impact is estimated to be a reduction of 249 beds statewide, for a savings to the state of \$2,716,999 and \$3,001,076 to the localities.

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY11	FY12	FY13	FY14	FY15	FY16
-133	-224	-245	-245	-246	-249

Adult community corrections resources. Raising a crime from a Class 1 misdemeanor to a Class 6 felony may decrease the demand for local community-based probation services and increase the need for state community corrections resources. The *Code of Virginia*, however, allows judges to utilize local community-based probation programs for Class 5 and Class 6 felons as well as misdemeanants. The net impact of the proposal on local versus state community corrections resources cannot be estimated.

Virginia's sentencing guidelines. Convictions under § 18.2-461 are not covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event. However, convictions under this statute may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary as a result of the proposal.

Juvenile correctional centers. Because the proposal increases the penalty for certain acts from a misdemeanor to a felony, the proposal could result in additional commitments to DJJ. Existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication or has accumulated a total of four Class 1 misdemeanor adjudications.

According to the Department of Juvenile Justice (DJJ), the estimated impact of the proposal on juvenile correctional center bed space needs is \$95,282. This estimate only entails those already committed to DJJ, and does not include additional commitments as a result of a juvenile becoming eligible for commitment based only on a violation of § 18.2-461.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), 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 is \$2,896,708 for periods of imprisonment in state adult correctional facilities and is \$95,282 for periods of commitment to the custody of the Department of Juvenile Justice.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2009.
2. New cases resulting in state-responsible sentences were based on forecasts developed by the Secretary of Public Safety's Committee on Inmate Forecasting and approved in 2009.
3. Cost per prison bed was assumed to be \$27,700 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.***
4. Cost per jail bed was based on The Compensation Board's FY2008 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$29.93 per day or \$10,932 per year. The local cost was calculated by using the daily expenditure cost of \$67.99 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$33.06 per day or \$12,075 per year. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.***

Assumptions relating to sentence lengths

1. The impact of the proposed legislation, which would be effective on July 1, 2010, is phased in to account for case processing time.
2. It was assumed that prosecutors would charge all eligible offenders with the proposed felony.
3. Offenders affected by the proposal were assumed to receive sentences similar to those currently convicted of Class 6 felony fraud offenses. For these crimes, 18% of offenders were given a state-responsible (prison) term with a median sentence of two years.
4. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2008. For non-violent crimes, this rate was 11.5%.

Assumptions underlying the juvenile correctional bed space analysis include:

1. All juveniles adjudicated for a violation of § 18.2-461 who are committed to DJJ with a Class 1 misdemeanor under current law would be committed under the proposed Class 6 felony.
2. Currently, new commitments that would be affected by the proposal have a LOS guidelines assignment of 3-6 months and an average length of stay of 6.68 months. All new commitments under the proposal would have a LOS guidelines assignment of 6-12 months and would serve the average time actually served by those committed under that assignment (7.06 months).
3. Cost per JCC bed was \$330 per day (annualized to be \$120,167) as reported by the Department of Juvenile Justice. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.***

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