



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### House Bill No. 204 (Patron – Krupicka)

**LD#:** 14101108

**Date:** 12/23/2013

**Topic:** Gifts and disclosures

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**  
Cannot be determined, likely to be small

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

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#### Summary of Proposed Legislation:

The proposed legislation amends numerous sections of the *Code of Virginia* and adds five new sections, relating to gifts and filing of disclosure statements by legislators and others. Under the proposal, legislators, members-elect of the General Assembly, and certain state and local officials would be prohibited from soliciting or accepting certain gifts. The proposal would make it a Class 1 misdemeanor for a lobbyist to provide a prohibited gift to a state or local official or a member or member-elect of the General Assembly. The proposal also expands the requirements for items that must be disclosed by legislators and others to include, for example, gifts to immediate family members. The proposal would remove the requirement for General Assembly members to have their disclosure forms notarized, thereby eliminating any felony penalties for making a false statement on the form. Finally, the proposal would provide for centralized filing of disclosure forms with the Secretary of the Commonwealth, with more frequent filing required beginning in 2015.

Currently, under § 30-123, any legislator who knowingly violates a provision of the General Assembly Conflict of Interests Act (§§ 30-102 through 30-111) is guilty of a Class 1 misdemeanor. In addition, the disclosure form for General Assembly members contains an Affirmation that the information is full, true, and correct, which must be notarized. Any person willfully swearing to a false statement on a notarized document can be prosecuted for perjury, which is punishable as a Class 5 felony under § 18.2-434. Similarly, under § 2.2-426, a lobbyist who signs the disclosure statement knowing that it contains a material misstatement of fact is guilty of a Class 5 felony, while a violation of lobbyist regulations is a Class 1 misdemeanor under § 2.2-433. Per § 2.2-3120, an official who knowingly violates the State and Local Government Conflict of Interests Act (§§ 2.2-3102 through 2.2-3119) is guilty of a Class 1 misdemeanor or, for certain violations, a Class 3 misdemeanor.

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**Analysis:**

According to General District Court Case Management System (CMS)<sup>1</sup> data for fiscal year (FY) 2012 and FY2013, one offender was convicted of a Class 1 misdemeanor under § 2.2-3112 for failing to disqualify himself from participating in a government transaction in which he had a personal interest. This offender did not receive an active term of incarceration to serve after sentencing. During the same two-year period, there were no misdemeanor convictions under § 30-123 for violation of the General Assembly Conflict of Interests Act.

Sentencing Guidelines data for FY2012 and FY2013 indicate that 50 offenders were convicted of a Class 6 felony for perjury under § 18.2-434 (in these cases, perjury was the primary, or most serious, offense at sentencing). More than half (54%) of these offenders did not receive an active term of incarceration to serve after sentencing. Approximately one-third (30%) of the offenders were given a local-responsible (jail) term, for which the median sentence was three months. The remaining 16% received a state-responsible (prison) term with a median sentence of 1.8 years. Data do not contain sufficient detail to identify the number of perjury cases involving notarized documents or a Statement of Economic Interests.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it does not expand the applicability of any felony penalties, the proposed legislation is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

**Local adult correctional facilities.** By expanding the applicability of certain misdemeanor offenses, the proposal could increase local-responsible (jail) bed space needs. The magnitude of the impact cannot be determined, but any impact is likely to be small.

**Adult community corrections programs.** Because the proposal could result in additional misdemeanor convictions with supervision requirements for the offenders, the proposal may affect local community corrections resources. While the potential impact on community corrections cannot be quantified, any impact is likely to be small.

**Virginia's sentencing guidelines.** No adjustment to the guidelines would be necessary under the proposal.

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

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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<sup>1</sup> Formerly referred to as the Court Automated Information System (CAIS).