



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 420 (Patron – Minchew)

LD#: 14102201

Date: 12/16/2013

Topic: Misuse of public assets

Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:**
Cannot be determined, likely to be small
- **Juvenile Detention Facilities:**
Cannot be determined, likely to be small

Summary of Proposed Legislation:

The proposal modifies § 18.2-112.1, relating to the misuse of public assets. Currently, any full-time officer, agent, or employee of the Commonwealth or any political subdivision who uses or permits the use of public assets for private or personal purposes is guilty of a Class 4 felony if the value of such use exceeds \$1,000 in any 12-month period. The proposal expands the applicability of this felony to include any other officers, agents, or employees of the Commonwealth or a political subdivision, such as part-time employees, who misuse public assets when such use exceeds \$1,000 in a year.

Analysis:

According to the Circuit Court Case Management System (CMS)¹ for fiscal year (FY) 2012 and FY2013, there were no convictions for misuse of public assets under § 18.2-112.1 during this time period. CMS data for FY2009 through FY2011 indicate that two offenders were convicted of a felony under this statute in FY2010. Neither of these offenders received an active term of incarceration to serve after sentencing.

Available data do not contain sufficient detail to determine the number of instances involving misuse of public assets by individuals who are not full-time officers, agents, or employees of the Commonwealth or a political subdivision thereof.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the existing Class 4 felony in § 18.2-112.1 for misuse of public assets to cover additional types of state and local officers, agents, and employees. However, only two offenders have been convicted under this provision in the five most recent fiscal years and neither was sentenced to a term of incarceration. Given past sentencing practices for this offense, it is unlikely that the proposal will increase the state-responsible (prison) bed space needs of the Commonwealth.

¹ Formerly referred to as the Court Automated Information System (CAIS).

Local adult correctional facilities. Similarly, it is unlikely that the proposal will increase local-responsible (jail) bed space needs.

Adult community corrections resources. Because the proposal could result in additional felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be determined.

Virginia's sentencing guidelines. Convictions under § 18.2-112.1 are not covered by the sentencing guidelines as the primary (most serious) offense in a case; however, convictions for this crime 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. The Department of Juvenile Justice (DJJ) reports that, while this proposal may cause a limited increase in commitments, the impact of this proposal on bed space needs of juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on detention center bed space will be limited; however, the exact impact cannot be determined.

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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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