



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1178

(Patron – Pogge)

LD#: 14103551

Date: 1/10/2014

Topic: Trespass; physical interference with rights of owner

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

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

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-121 relating to trespassing. Currently, it is unlawful for any person to enter the land, dwelling, or any other building of another for the purpose of damaging property or to interfere with the rights of the owner or occupant to use such property free from interference. The proposal limits the applicability of this section by making it unlawful for any person to enter property to physically interfere with the rights of the owner or occupant.

A violation of § 18.2-121 is punishable as a Class 1 misdemeanor; however, if a person intentionally selects the property entered because of the race, religious conviction, color or national origin of the owner or occupant, the offender is guilty of a Class 6 felony and subject to a mandatory minimum term of confinement of 30 days.

Analysis:

According to General District Court Case Management System (CMS)¹ data for fiscal year (FY) 2012 and FY2013, 1,413 offenders were convicted of a misdemeanor for trespassing under § 18.2-121. The majority of these offenders (54%) did not receive an active term of incarceration to serve after sentencing. The remaining 46% were sentenced to a local-responsible (jail) term, with a median sentence of one month.

Circuit Court CMS data for FY2012 and FY2013 indicate that one offender was convicted of a Class 6 felony under § 18.2-121 during this time period. This offender was also convicted of several other charges, with the primary (most serious) offense being felony destruction of property under § 18.2-137(B,ii). The offender was sentenced to serve approximately 1.8 years in prison.

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

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation limits the applicability of this section to instances of physical interference with an owner or occupant's property rights. Therefore, the proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is not expected to increase the local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections programs. The proposal is not expected to impact community corrections resources.

Virginia's sentencing guidelines. Felony convictions under § 18.2-121 are not covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center 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 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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