



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2385

(Patron – Gilbert)

LD#: 15103762

Date: 1/16/2015

Topic: Possession, etc., of wireless telecommunications devices by prisoners

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000*
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined**
- **Juvenile Detention Facilities:**
Cannot be determined**

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the 2014 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-431.1, relating to the possession, etc., of cellular telephones by prisoners. Currently, any person who provides or causes to be provided a cellular telephone to an incarcerated prisoner or person committed to the Department of Juvenile Justice is guilty of a Class 6 felony. Prisoners and committed individuals who possess a cellular telephone during the period of their incarceration are also guilty of a Class 6 felony. Under the proposal, the felony penalties contained in § 18.2-431.1 would be expanded to include the possession, etc., of any wireless telecommunications device.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of instances in which a prisoner possesses a wireless telecommunications device that is not classified as a cellular telephone. Likewise, data sources do not allow for the identification of cases in which an individual provided such a device to an inmate. However, individuals convicted under the proposal may be sentenced similarly to offenders who are convicted under the existing felony provisions of § 18.2-431.1.

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2013 and FY2014, 53 offenders were convicted of a Class 6 felony under § 18.2-431.1 for possessing a cellular telephone as a prisoner or providing a cellular telephone to a prisoner. This offense was the primary, or most serious, offense in 43 cases. The majority (81.4%) of these offenders received a local-responsible (jail) term, with a median sentence length of six months. Another 11.6% did not receive an active term of incarceration to

serve after sentencing. The remaining 7% were sentenced to a state-responsible (prison) term, with a median sentence length of one year.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional convictions that may result from the proposal cannot be estimated. Therefore, the impact of the proposal on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth. However, the impact on jail bed space needs cannot be determined.

Adult community corrections programs. Because the proposal could result in 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 quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-431.1 are not covered by the sentencing guidelines as the primary (most serious) offense in a case. However, convictions under this statute 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 (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the 2014 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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