



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1328
As Engrossed
(Patron Prior to Engrossment – Cline)

LD#: 16104146

Date: 2/17/2016

Topic: Delegates to a constitutional convention

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) *

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposed legislation amends the *Code of Virginia* by adding § 18.2-485.1, relating to unfaithful delegates to a constitutional convention. The proposal specifies that any individual representing the Commonwealth at a convention to amend the U.S. Constitution who knowingly or intentionally votes for a proposed amendment that is outside the scope of the application calling for the convention is guilty of a Class 5 felony.

Article V of the United States Constitution allows two ways to amend the Constitution. First, amendments may be added after a vote of two-thirds of both the U.S. House of Representatives and the U.S. Senate followed by ratification by three-fourths of the state legislatures. Second, the Constitution may be amended by a convention called for by two-thirds of the state legislatures. Any of the convention's proposed amendments must be ratified by three-fourths of the state legislatures. This proposal relates to the second method of amending the U.S. Constitution.

Analysis:

Currently in the *Code of Virginia*, there are no substantially similar statutes to the proposal; however, there are statutes related to misconduct by government officials and employees. According to the General District Court Case Management System (CMS) for fiscal years 2010 through 2015, one official was convicted of violating the State and Local Government Conflict of Interests Act, §§ 2.2-3100 — 2.2-3131. This 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 and did not receive an active term of incarceration to serve after sentencing. In addition, the same General District Court data indicate that there were no convictions under the General Assembly Conflicts of Interest Act, §§ 30-100 — 30-129, during this time period.

Impact of Proposed Legislation:

State adult correctional facilities. By adding a new felony offense relating to a convention to amend the U.S. Constitution, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the proposal would only be applicable if there is a Constitutional Convention proposed by the state legislatures. Given the process that would be necessary for a Constitutional Convention to occur, any potential impact associated with the proposal would likely occur beyond the six-year forecast window required by § 30-19.1:4.

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

Adult community corrections programs. The proposal is not expected to have an impact on adult community corrections programs.

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.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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