



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 357

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Lewis)*

LD #: 16104840

Date: 1/27/2016

Topic: Obstruction of justice

#### 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 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends § 18.2-460 to expand offenses related to the obstruction of justice to include obstruction of any clerk of court or deputy clerk in the performance of his or her duty.

Currently, it is a Class 1 misdemeanor to obstruct a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law enforcement officer, or animal control officer, or to attempt to intimidate or impede any such individual by threats or force. Any violation committed using threat of bodily harm or force in relation to certain drug, gang, or violent offenses is a Class 5 felony. The proposal expands these provisions to include court clerks and deputy clerks among the covered individuals.

#### Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015, 76 offenders were convicted of a Class 5 felony under § 18.2-460 for obstruction of justice. The obstruction of justice conviction was the primary, or most serious, offense in 42 of the cases. Of these, 47.6% of these offenders received a local-responsible (jail) term, with a median sentence of five months. Another 19.1% of offenders received state-responsible (prison) terms, for which the median sentence was 1.25 years. The remaining 33.3% of offenders did not receive an active term of incarceration to serve after sentencing.

General District Court CMS data for FY2014 and FY2015 indicate that 3,859 offenders were convicted of a Class 1 misdemeanor under § 18.2-460 for obstruction of justice. Over half (55.2%) of these offenders did not receive an active term of incarceration to serve after sentencing. The median sentence for the remaining 44.8% who were sentenced to a local-responsible (jail) term was one month.

---

**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it expands the applicability of an existing felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from enactment of the proposal cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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

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

**Virginia’s sentencing guidelines.** Felony convictions under § 18.2-460 are not covered by the sentencing guidelines when this offense is the primary, or 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, the impact of the proposal on juvenile correctional center 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 665 of the 2015 Acts of Assembly 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.**

obstruct02\_4840