



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2166

(Patron – Pillion)

LD#: 17102039

Date: 1/4/2017

Topic: Possession of controlled substances

Fiscal Impact Summary:

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

- **Juvenile Direct Care:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-250 of the *Code of Virginia*, relating to the possession of controlled substances. Currently, an individual unlawfully in possession of a Schedule I or II controlled substance, as defined in the Drug Control Act, is guilty of a Class 5 felony. An individual unlawfully in possession of a Schedule III substance is guilty of a Class 1 misdemeanor. The proposal restructures § 18.2-250 by enumerating certain Schedule I, II, and III substances in individual subsections. The proposal does not modify any existing penalties for these offenses.

Analysis:

According to fiscal year (FY) 2015 and FY2016 Sentencing Guidelines data, 9,703 offenders were convicted of a Class 5 felony under § 18.2-250 for possession of a Schedule I or II substance. This offense was the primary, or most serious, offense in 8,707 cases. Of these, over half (51.7%) did not receive an active term of incarceration to serve after sentencing. Another 37.5% received a local-responsible (jail) term, with a median sentence of three months. The remaining 10.8% received a state-responsible (prison) term, for which the median sentence was 1.5 years.

General District Court Case Management System (CMS) data for FY2015 and FY2016 indicate that 820 offenders were convicted of a Class 1 misdemeanor under § 18.2-250 for possession of a Schedule III substance. The majority (55%) of these offenders did not receive an active term of incarceration to serve after sentencing. The other 45% received a local-responsible (jail) term, with a median sentence of one month.

The existing data sources readily available to the Commission do not provide sufficient detail to identify the specific types of drugs associated with these cases.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation restructures § 18.2-250, related to possession of controlled substances, but does not change existing penalties. Thus, the proposal is not expected to have any impact on the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposed legislation will not have any additional impact on local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal will not affect adult community corrections resources.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), the proposal will not increase direct care (juvenile correctional center or alternative commitment placement) 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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