



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### House Bill No. 1188 (Patron – Hurst)

LD#: 18104753

Date: 1/9/2018

Topic: Natural gas pipelines

#### Fiscal Impact Summary:

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

- **Juvenile Direct Care:**  
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 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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#### Summary of Proposed Legislation:

The proposal adds Article 13 to Chapter 3.1 of Title 62.1 of the *Code of Virginia* to establish regulations governing natural gas pipelines. The legislation authorizes the State Water Control Board to adopt regulations and develop procedures to prevent pollution of lands or state waters from the discharge of gas from pipelines. The regulations are to be developed in conformity with the current codes and standards recommended by the National Fire Protection Association.

The proposal defines several criminal penalties for violations relating to unlawful discharges from natural gas pipelines. It would be a misdemeanor, punishable by up to 12 months in jail, to knowingly violate a provision of this article or a regulation issued under this article. Making a false statement, representation or certification in any application, report or other required document would be a felony punishable by one to three years in prison. Any person whose negligence causes a discharge of gas into state waters would be guilty of a misdemeanor carrying up to 12 months in jail. However, knowingly and willfully committing such an act would be a felony subject to 1 to 10 years in prison or, for a second or subsequent offense, 2 to 10 years. Various fines and civil penalties are also specified. Each day of violation would constitute a separate offense under the proposal.

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#### Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be convicted of new felony or misdemeanor offenses if the proposal is enacted. However, affected offenders

may be sentenced similarly to those currently convicted under § 62.1-44.32, relating to violations of the State Water Control Law.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2012 through FY2017, there were no felony convictions under § 62.1-44.32 during the six-year period; however, one offender was convicted of seven misdemeanor counts of willfully violating provisions of the State Water Control Law. This offender, whose primary (most serious) offense was felony destruction of property under § 18.2-137, was sentenced to serve two years in prison; however, the misdemeanor convictions under § 62.1-44.32 did not account for any of the offender's actual time to serve.

Based on General District Court CMS data for FY2012 to FY2017, no misdemeanor convictions for violations of the State Water Control Law under § 62.1-44.32 could be identified.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By establishing new felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Available data sources do not contain sufficient detail to estimate the number of additional felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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

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

**Virginia's sentencing guidelines.** Since the proposal defines new felony offenses, convictions under the proposed section of the *Code* would not be covered by the sentencing guidelines as the primary, or most serious, offense. However, such convictions may 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 direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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.

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**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 836 of the 2017 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.**