



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 693 (Patron – Poindexter)

LD#: 18103064

Date: 1/3/2018

Topic: Damaging farm property

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.

Summary of Proposed Legislation:

The proposal adds § 18.2-323.2 to the *Code* regarding damage to agricultural property. The proposal would make it a Class 6 felony for any person to throw or deposit any glass bottle, nail, wire, can or any other substance upon property used for an agricultural operation, causing damage of at least \$200. Under the proposal, the court must order any person convicted of such an offense to make restitution in accordance with § 19.2-305.1 for the damage caused.

The proposal may overlap to some extent with existing provisions of the *Code*. Specifically, under § 18.2-137, damaging or destroying personal property or a monument is a Class 1 misdemeanor if the value is less than \$1,000 or a Class 6 felony if the value is \$1,000 or more.

Analysis:

Existing data sources do not contain sufficient detail to determine how many additional felony convictions may result from the proposal's enactment. However, affected offenders may be sentenced similarly to those who are currently convicted of a Class 6 felony under § 18.2-137 for damage to or destruction of property.

According to Sentencing Guidelines data for fiscal year (FY) 2016 and FY2017, 403 offenders were convicted of felony violations of § 18.2-137 for damaging or destroying personal property valued at \$1,000 or more. This offense was the primary, or most serious, offense in 163 cases. Of these, 45.4% did not receive an active term of incarceration after sentencing. However, 40.5% were given a local-

responsible (jail) term, with a median sentence of five months, and 14.1% received a state-responsible (prison) term, with a median sentence of 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from 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 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 felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. The potential impact on community corrections programs, however, cannot be determined.

Virginia's sentencing guidelines. Felony convictions under the proposed § 18.2-323.2 would not be 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 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.

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.

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