



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 991 *As Engrossed* (Patron Prior to Engrossment – Gilbert)

LD#: 18103174

Date: 12/28/2017

Topic: Gifts and disclosures

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 proposed legislation amends § 2.2-3114 related to the disclosure of economic interests by state officers and employees. Currently, the Governor, Lieutenant Governor, Attorney General, justices and judges, members of specified commissions and boards, and other persons occupying such offices or positions of trust or employment in state government must file an annual statement disclosing their economic interests. The proposal expands the list of individuals who must file such statements to explicitly include members of the Board of the Virginia College Savings Plan and its Investment Advisory Committee. The Board of the Virginia College Savings Plan (Virginia529) is composed of 11 members, four of whom serve automatically through their positions as state officials.¹ The four state officials who serve on the Board currently must file disclosure statements. The remaining seven non-legislative citizen members are not currently required to file disclosure statements. Under § 23.1-702(F), the disclosure requirements of § 2.2-3114(B) currently apply to all members of the Investment Advisory Committee.

A state or local official who knowingly and intentionally makes a false statement of a material fact on a statement of economic interest/disclosure form is guilty of a Class 5 felony per § 2.2-3117. Under § 2.2-3120, an official who knowingly violates the State and Local Government Conflict of Interests Act (§§ 2.2-3102 through 2.2-3119) is guilty of a Class 1 misdemeanor or, for certain violations, a Class 3 misdemeanor. As defined in § 2.2-3115, failure to file the required statement of economic interest/disclosure form is a Class 1 misdemeanor.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2012 to FY2017, two state or local officials were convicted of misdemeanors under § 2.2-3112 for failing to

¹ <https://www.virginia529.com/about/leadership/>

disqualify themselves from participating in a government transaction in which they had a personal interest. Neither offender received an active term of incarceration to serve after sentencing. During the same time period, no state officials were convicted of misdemeanor under § 2.2-3115 for failing to file the required statement. Circuit Court CMS data for the same six-year period indicate that there were no felony convictions under § 2.2-3117 for making a false statement on an economic interest/disclosure form filed by a state and local official.

In 2017, approximately 11,000 state officers, employees, and board members filed statements of economic interest or disclosure forms with the Virginia Conflict of Interest and Ethics Advisory Council.²

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the list of officials who are required to file statements of economic interests/disclosure forms and, thus, expands the number of people who could potentially make false statements on the form. However, of the approximately 11,000 statements of economic interest filed by state officers, employees, and board members annually, none have resulted in a felony conviction under § 2.2-3117 during the most recent six-year period (FY2012-FY2017). Thus, it is unlikely that expanding the filing requirements to an additional seven individuals will increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is unlikely to increase the local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections programs. The proposal is not expected to impact adult community corrections resources.

Virginia's sentencing guidelines. Convictions under the State and Local Government Conflict of Interests Act (§§ 2.2-3102 through 2.2-3119) are not covered by the sentencing guidelines when the offense is the primary, or most serious, offense in a case. However, convictions under these provisions 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. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to have an impact on direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to impact 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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² Virginia Conflict of Interest and Ethics Advisory Council, *2017 Annual Report*.