



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2056

(Patron – Yancey)

LD #: 19101413

Date: 12/14/2018

Topic: False information and hoax criminal activity

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 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds § 18.2-212.2 to the *Code of Virginia* relating to false information and hoax criminal activity. Under the proposal, it would be a Class 1 misdemeanor for any person to knowingly engage in conduct with the intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a felony violation of Chapter 4 (Crimes Against Person) or Chapter 5 (Crimes Against Property) of Title 18.2. If such conduct results in death or serious bodily injury to another person, the perpetrator would be guilty of a Class 4 felony. Violation of the proposed section would constitute a separate and distinct offense. The proposal would also require the court to order restitution to compensate a law-enforcement or public safety agency that responded to the situation.

Currently, under § 18.2-461, it is a Class 1 misdemeanor for any person (i) to knowingly give a false report as to the commission of any crime to any law-enforcement official with intent to mislead, or (ii) without just cause and with intent to interfere with the operations of any law-enforcement official, to call or summon any law-enforcement official by telephone or other means, including engagement or activation of an automatic emergency alarm.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2017 and FY2018, 833 individuals were convicted of a Class 1 misdemeanor under § 18.2-461 for falsely summoning or making a false report to a law enforcement officer. Two-thirds (66.6%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining one-third (33.4%) received a local-responsible (jail) term for which the median sentence was approximately 20 days.

Existing databases do not provide sufficient detail to identify the number of new felony convictions likely to result from enactment of the proposal. However, affected individuals may be sentenced similarly to those who are currently convicted of a felony for obstruction of justice.

Circuit Court CMS data for FY2017 and FY2018 indicate that 80 offenders were convicted of a Class 5 felony under § 18.2-460(C) for obstruction of justice by threats of bodily harm or force or for obstruction of justice in relation to a violent felony offense or specified drug crime (in these cases, the obstruction charge was the primary, or most serious, offense at sentencing). Of these offenders, 42.5% received a local-responsible (jail) term with a median sentence of 4.5 months. Another 27.5% received a state-responsible (prison) term for which the median sentence was 2.1 years. The remaining 30.0% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for any existing misdemeanor to a Class 4 felony in certain circumstances, 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. Convictions for the proposed felony would not be covered by the sentencing guidelines when the 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 2 of the Acts of Assembly of 2018, Special Session I, 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.