



## **Fiscal Impact Statement for Proposed Legislation**

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### ***Virginia Criminal Sentencing Commission***

### **Senate Bill No. 36** **Amendment in the Nature of a Substitute** ***(Patrons Prior to Substitute –Lucas)***

**LD#:** 20109796

**Date:** 3/6/2020

**Topic:** Casino gaming

**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 854 of the 2019 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 several sections to the *Code of Virginia* relating to casino gaming. The proposal sets forth administrative procedures and requirements for casino gaming, designates the Virginia Lottery Board to regulate casino gaming, and establishes new offenses relating to casino gaming in Virginia. The proposal further establishes specific regulations for “on-premises mobile casino gaming,” defined as follows in proposed § 58.1-4100:

“[C]asino gaming offered by a casino gaming operator at a casino gaming establishment using a computer network of both federal and nonfederal interoperable packet-switched data networks through which the casino gaming operator may offer casino gaming to individuals who have established an on-premises mobile casino gaming account with the casino gaming operator and who are physically present on the premises of the casino gaming establishment”

The proposal prohibits numerous activities relating to casino gaming, including cheating at gaming, bribing game operators, fixing a game in a player’s favor as an operator, and operating casino gaming where wagering is used or to be used without the proper license; violation of these provisions would be a Class 6 felony, and offenders would be barred for life from Virginia gaming operations under jurisdiction of the Virginia Lottery Board. Any person who conspires, confederates, or combines with another to commit any felony prohibited under the proposed Chapter 41 of Title 58.1 would be guilty of a Class 6 felony. Under the proposal, any person under the age of 21 who wagers on casino gaming or anyone who

accepts a wager from a person under the age of 21 would be guilty of a Class 1 misdemeanor. Also, any person who wagers or accepts a wager on the outcome of a youth sports game would be guilty of a Class 1 misdemeanor.

The proposal also defines several offenses that would be punishable as Class 4 felonies. Included are making a false statement on an application for a casino gaming operator's license or supplier's permit and fraudulent use or possession of a credential, license or permit issued by the Virginia Lottery Board.

Separate penalties are established under the proposal pertaining to on-premises mobile casino gaming. Offering on-premises mobile casino gaming without Board approval would be a Class 6 felony, and tampering with mobile casino gaming equipment or knowingly offering tampered equipment would be a Class 5 felony.

Currently, under § 18.2-328, operating an illegal gambling enterprise is a Class 6 felony. An operator who engages in an illegal gambling operation that is in continuous operation for more than 30 days or who has a gross revenue of \$2,000 or more in a single day is subject to imprisonment for one to ten years.

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**Analysis:**

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2018 and FY2019, one offender was convicted of a felony under § 18.2-328 for operating a continuous illegal gambling operation. This was the primary, or most serious, offense at sentencing. This individual did not receive an active term of incarceration to serve after sentencing.

Existing data do not contain sufficient detail to determine the number of felony convictions that may occur as the result of the proposal.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it creates new felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison beds cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. 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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

**Virginia's sentencing guidelines.** Since the proposal defines new felony offenses, convictions under the proposed sections of the *Code* would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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 854 of the 2019 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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