



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### Senate Bill No. 5030

#### Floor Amendment in the Nature of a Substitute

*(Patron Prior to Substitute –Locke, Norment, Favola, and Morrissey)*

LD#: 20201148

Date: 09/08/2020

Topic: Law enforcement training, prohibited practices, decertification, and civil action

#### 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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends and adds numerous sections to the *Code* that would expand law enforcement training standards, prohibit certain practices, allow for decertification of officers for serious misconduct, and require disclosure of information to prospective law-enforcement employers. The proposal would also specify criteria for search warrants, expand cause for civil action, and require additional posting of police data to public websites.

In addition, the proposal amends § 18.2-64.2 to add law-enforcement officers to the list of persons who are subject to a Class 6 felony if they are in a position of authority over, and carnally know without force, threat, or intimidation, any detainee in the custody of a private, local, or state law-enforcement agency. Currently, the Class 6 felony defined in § 18.2-64.2 only includes the carnal knowledge of an inmate, parolee, probationer, detainee, pretrial defendant or posttrial offender by certain corrections or probation officials.

#### Analysis:

Available data do not contain sufficient detail to determine the number of incidents that would be affected by the expansion of § 18.2-64.2 to include carnal knowledge of an arrestee by a law-enforcement officer. Based on Circuit Court Case Management System (CMS) data for FY2014 through FY2019, 23 individuals were convicted of felony carnal knowledge of an inmate, etc., under § 18.2-64.2 as the

primary (or most serious) offense. While 56.5% of these offenders did not receive an active term of incarceration to serve after sentencing, 34.8% of the offenders were sentenced to local-responsible (jail) terms with a median sentence of 4.5 months. The remaining two offenders (8.7%) were sentenced to state-responsible (prison) terms of 1.3 years and 1.5 years, respectively.

---

**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal expands the applicability of an existing Class 6 felony to cover additional circumstances. However, existing 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.** The proposal may increase the local-responsible (jail) bed space needs; however, the magnitude of the impact on jail bed space needs cannot be estimated with existing data.

**Adult community corrections programs.** 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. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections cannot be quantified.

**Virginia's sentencing guidelines.** Convictions under § 18.2-64.2 are not covered by the sentencing guidelines when the offense is the primary (most serious) offense at sentencing; however, such a conviction 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 1289 of the Acts of Assembly of 2020 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.**

leo19\_1148