



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 5050 (Patrons – Obenshain and Ruff)

LD#: 20200490

Date: 8/26/2020

Topic: Requirements for the release of inmates to parole

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined (likely to be small)
- **Adult Community Corrections Programs:**
Cannot be determined (likely to be small)

- **Juvenile Direct Care:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** 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 §§ 53.1-136, 53.1-155 and 53.1-160 to require the Chairman of the Virginia Parole Board to certify under oath the Board's compliance with the provisions regarding notice to certain persons prior to the release or discharge of any prisoner. The bill also expands the Board's reporting requirements. Finally, the bill repeals the authority of the Director of the Department of Corrections to identify and recommend to the Board prisoners for early parole consideration.

Under § 18.2-434, a person to whom an oath is lawfully administered who willfully and falsely swears to any material matter may be prosecuted for perjury, a Class 5 felony. Currently, no criminal penalty is specified if the Parole Board fails to comply with the notice or reporting requirements.

Analysis:

Existing data do not contain sufficient detail to estimate the number of additional individuals who may be convicted of perjury if the proposal were enacted. However, affected offenders may be sentenced similarly to those who are currently convicted of perjury under § 18.2-434 for falsely swearing an oath.

Sentencing Guidelines data for fiscal year (FY) 2018 and FY2019 indicate that 74 offenders were convicted of a Class 5 felony for falsely swearing an oath under § 18.2-434. The perjury offense was the primary, or most serious, offense at sentencing in 51 of the cases. Of these, 33.3% of the offenders did not

receive an active term of incarceration to serve after sentencing. Another 51% of the offenders were given a local-responsible (jail) term for which the median sentence was three months. The remaining 15.7 % received a state-responsible (prison) term with a median sentence of 1.7 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony offense, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of new felony convictions that would result from enactment of the proposal. While the impact on prison bed space needs cannot be determined, any impact is likely to be small because the new oath under the proposed would apply only to each Chairman of the Virginia Parole Board for the period they hold office.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs. Since the number of new convictions that may result from enactment of the proposal cannot be determined, the magnitude of the impact on jail bed space needs cannot be estimated. Any impact, however, is likely to be small.

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. Although the impact cannot be quantified, any impact is likely to be small.

Virginia’s sentencing guidelines. Felony convictions under § 18.2-434 are covered by the sentencing guidelines as the primary, or most serious, offense. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal is not expected to impact 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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.