

Department of Planning and Budget
2021 Special Session I - Fiscal Impact Statement

1. Bill Number: SB1461 H1

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☒ Substitute ☐ Enrolled

2. Patron: Lewis

3. Committee: Judiciary

4. Title: Bribery in correctional facilities; penalty.

5. Summary: The substitute bill creates a new section of the Code of Virginia, § 18.2-474.2 (bribery in correctional facilities, penalty), and establishes that any person who receives any pecuniary benefit or other consideration to act in violation of § 18.2-474 (delivery of articles to prisoners or committed person) or 18.2-474.1 (delivery of drugs, firearms, explosives, etc., to prisoners or committed persons) is guilty of bribery, which is punishable as a Class 4 felony.

The bill also establishes that any law-enforcement officer as defined in § 9.1-101, jail officer as defined in § 53.1-1, or correctional officer as defined in § 53.1-1 who violates this section shall be decertified in accordance with § 15.2-1707 (decertification of law-enforcement officers), if applicable, and will be forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth.

6. Budget Amendment Necessary: Yes. Item 402.

7. Fiscal Impact Estimates: Preliminary. See line 8 below.

8. Fiscal Implications: Anyone convicted of a Class 4 felony is subject to a term of imprisonment of not less than two years nor more than ten years and a fine of up to \$100,000, either or both.

According to the Virginia Criminal Sentencing Commission (VCSC), existing data sources do not contain sufficient detail to identify the number of individuals who would be convicted of a Class 4 felony under the proposed section. However, if the proposal were enacted, VCSC reports that affected individuals may be sentenced similarly to those who have been convicted of the Class 4 felony under § 18.2-447 (bribery of public servants and party officials) or § 18.2-439 (acceptance of bribe by officer or candidate).

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2015 through 2020, 21 individuals were convicted of a Class 4 felony under § 18.2-447 or § 18.2-439. It was the primary, or most serious, offense at sentencing for 19 offenders. Of these, 31.6% received a state-responsible (prison) term with a median sentence of 1.5 years.

Another 47.4% were sentenced to a local-responsible (jail) term with a median sentence of three months. The remaining 21% of offenders did not receive an active term of incarceration to serve after sentencing.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 56, 2020 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

This bill may also increase the need for local-responsible (jail) bed space needs. According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$4.00 a day for each misdemeanor or otherwise local-responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2020), the estimated total state support for local jails averaged \$34.59 per inmate, per day in FY 2019.

- 9. Specific Agency or Political Subdivisions Affected:** Department of Corrections, Local and regional jails, Local law-enforcement agencies, Department of Juvenile Justice, Courts, Commonwealth's Attorneys, Public Defenders Office

10. Technical Amendment Necessary: No

11. Other Comments: None