



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1038 (Patron – Jones, D.C.)

LD#: 08-9817580

Date: 1/25/2008

Topic: Enforcement of minimum wage law

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends §§ 40.1-28.11 and 40.1-29, relating to penalties for wage violations. Under the proposal, any violation of the Virginia Minimum Wage Act (Chapter 3 of Article 1.1 in Title 40.1 of the *Code*) would be punishable as a Class 1 misdemeanor if the value of the wages earned and not paid by the employer is less than \$10,000. If the value of the wages earned and not paid is \$10,000 or more, an individual would be guilty of a Class 6 felony. The proposal also specifies that a second or subsequent conviction under § 40.1-28.11 would be a Class 6 felony. Currently, violations of this article are punishable by a fine of not less than \$10 nor more than \$200. The proposal replaces this provision with criminal penalties.

The proposal also modifies § 40.1-29 to allow the Commissioner to request that the Attorney General institute proceedings to enforce compliance with this section. In addition, the proposal creates the Minimum Wage Enforcement Revolving Trust Fund, a special non-reverting fund created on the books of the Comptroller for civil penalties assessed under § 40.1-29.

Analysis:

There are no criminal penalties currently defined in § 40.1-28.11; therefore, data are not available.

Impact of Proposed Legislation:

State adult correctional facilities. By creating new felonies, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the impact of the proposal on prison bed space cannot be determined.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections programs. The proposal may increase the need for state community corrections resources, but the magnitude of the impact cannot be determined.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the proposal will not affect juvenile detention facility bed space needs.

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 and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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