



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1363 (Patron – Miller J.H.)

LD#: 10104155

Date: 1/22/2010

Topic: Title Loans

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation adds Chapter 21 to Title 6.1 of the *Code of Virginia* relating to title loans (loans that are secured by a first priority non-purchase money security interest in a motor vehicle owned by the borrower). In addition to outlining procedural and licensing regulations for title loans and lenders, the proposal creates civil and criminal penalties for violations of enumerated restrictions. The proposal, for instance, prohibits engaging in misleading or deceptive acts or practices, charging a prepayment penalty, accepting a lien upon more than one motor vehicle as security for any title loan, and taking interest in any real or personal property other than a motor vehicle as security for a title loan. The proposal makes it a Class 6 felony to 1) engage in the business of making title loans without acting in accordance with the chapter's provision and without having first obtained a license or 2) arrange or broker title loans for any individual residing in the Commonwealth. Each violation would constitute a separate offense. This parallels existing language for Class 6 felonies relating to payday loans.

Analysis:

Fiscal year (FY) 2002 through FY2008 Pre/Post-Sentence Investigation (PSI) data indicate that no individuals were convicted of a felony for similar offenses during this time period (making a payday loan without a license (§ 6.1-445(A)), arranging or brokering a payday loan (§ 6.1-445(B)), or acting as a mortgage lender without a license (§ 6.1-429)). According to the General District Court Automated Information System (CAIS) for fiscal years 2008 and 2009, no one was convicted of a Class 2 misdemeanor for engaging in lending without a license in violation of § 6.1-249 during this period.

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 felony convictions likely to result from enactment of the proposal. Therefore, the impact of the proposal cannot be quantified.

Local adult correctional facilities. By establishing new felony offenses, the proposal may also increase the future local-responsible (jail) bed space needs. The magnitude of the impact cannot be determined with existing data.

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 proposed felonies would be new offenses, the sentencing guidelines would not cover convictions under the proposed § 6.1-481. However, a conviction under this provision may augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the sentencing guidelines would be necessary under the proposal.

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

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase 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 781 of the 2009 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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