



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1140

(Patron – Quayle)

LD #: 11101784

Date: 12/13/2010

Topic: Issuing bad checks

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:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the 2010 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal modifies §§ 18.2-181 and 18.2-182, related to the issuance of bad checks, to specify that these sections include any check, draft or order for payment of child or spousal support made knowing that insufficient funds exist in the account upon which it is drawn.

Currently, violation of §§ 18.2-181 or 18.2-182 is a Class 1 misdemeanor if the represented value is less than \$200; if the represented value is \$200 or more, the offense is a Class 6 felony.

In 2005, the General Assembly increased the penalty for a violation of § 18.2-182 from a Class 1 misdemeanor to a Class 6 felony if the represented value of the check, draft, or order has a represented value of \$200 or more. Prior to the 2005 modification, § 18.2-182 had not been changed since 1975. The General Assembly has not modified § 18.2-181 since 1981.

Analysis:

According to General District Court Automated Information System (CAIS) data for fiscal year (FY) 2009 and FY2010, the majority of offenders (86.7%) convicted of misdemeanor bad checks under § 18.2-181 as the primary, or most serious, offense were not given an active term of incarceration to serve. The remaining 13.3% were given a local-responsible (jail) term, with a median sentence length of less than one month. Another four offenders were convicted of misdemeanor bad checks under § 18.2-182 as the primary offense; none of these offenders received an active term of incarceration.

According to FY2009 and FY2010 Sentencing Guidelines data, when convicted of a felony under § 18.2-181 as the primary, or most serious, offense, nearly half (44.8%) of the offenders did not receive an active term of incarceration. More than one-third (35.9%) of offenders were sentenced to a local-

responsible (jail) term, with a median sentence length of six months. For the 19.4% of offenders who received a state-responsible (prison) term, the median sentence was 1.5 years.

According to the Circuit Court Automated Information System (CAIS) for FY2009 and FY2010, one offender was convicted of a felony under § 18.2-182 as the primary offense during this time period. This offender was not given an active term of incarceration to serve.

Impact of Proposed Legislation:

State adult correctional facilities. Since the proposal expands the applicability of two existing statutes related to issuing bad checks, it may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

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

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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-181 are covered by the sentencing guidelines. The guidelines do not cover convictions under § 18.2-182 when this crime is the primary (or most serious) offense in a case; however, a conviction under this section (as an additional offense) could 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 impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the effect of the proposal 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 874 of the 2010 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.