



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1431

(Patron – Albo)

LD #: 13100757

Date: 12/5/2012

Topic: Penalty for conspiracy to commit a felony

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 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-22 to modify certain penalties for conspiracy to commit a felony. Under the proposal, the penalty for conspiracy to commit murder would increase from a Class 3 felony (punishable by 5 to 20 years) to a felony punishable by 5 to 40 years in prison. In addition, the penalty for conspiracy to commit a non-drug Class 6 felony (or any other non-drug offense with a statutory maximum of five years) would be reduced under the proposal from a maximum of five years in prison to a maximum of one year in prison or 12 months in jail. The proposal does not modify the maximum penalty for attempts to commit a felony. The proposed changes are shown in the table below.

Penalty Structure for Conspiracy to Commit a Non-Drug Felony¹

Completed Felony	Penalty for Conspiracy under Current Law	Penalty for Conspiracy under Proposal
Capital murder	Class 3 felony (5 to 20 years)	5 to 40 years
Non-capital murder	Class 5 felony (1 to 10 years)	5 to 40 years
Felony with maximum penalty of life (other than murder)	Class 5 felony (1 to 10 years)	Class 5 felony (1 to 10 years)
Felony with maximum penalty of 10 years or more (other than murder)	Class 5 felony (1 to 10 years)	Class 5 felony (1 to 10 years)
Felony with maximum penalty of 5 years	Up to 5 years	Up to 1 year
Felony with maximum penalty of less than 5 years	Up to 1 year	Up to 1 year

¹ Penalties for conspiracies to commit drug felonies are specified in § 18.2-256 of the *Code of Virginia*.

Analysis:

According to fiscal year (FY) 2011 and FY2012 Sentencing Guidelines data, six offenders were convicted of conspiracy to commit murder. Under the proposal, the maximum penalty for conspiracy to commit murder would increase from 20 to 40 years.

Based on FY2011 and FY2012 data from the Circuit Court Automated Information System (CAIS), no offenders were convicted of conspiracy to commit capital murder during this two-year period.

According to Sentencing Guidelines data for the same two-year period, 27 offenders were convicted of conspiracy to commit a Class 6 non-drug felony or another non-drug offense with a statutory maximum of five years. For these offenders, the conspiracy charge was the most serious offense at sentencing. Five of the 27 offenders were given a state-responsible (prison) term to serve, with sentences ranging from one to two years. Under the proposal, the maximum penalty for conspiracy to commit such an offense would decrease from five years to one year.

Impact of Proposed Legislation:

Adult correctional facilities. The impact of the proposed legislation on state-responsible (prison) beds cannot be determined. Increasing the penalty for conspiracy to commit murder may increase the need for prison beds, while decreasing the penalty for conspiracy to commit a Class 6 non-drug felony (or similarly punished offense) is likely to decrease the need for prison beds. The net impact on prison bed space needs cannot be estimated.

Local adult correctional facilities. Similarly, the net impact of the proposal on local-responsible (jail) bed space needs cannot be determined.

Adult community corrections programs. The proposal may have an impact on local and state community corrections programs. However, the net impact on local or state community corrections resources cannot be determined.

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

Juvenile correctional centers. The Department of Juvenile Justice reports that, while this proposal could cause an increase in commitments, the impact of this proposal on bed space for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on juvenile detention center bed space needs 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 3 of the Acts of Assembly of 2012, Special Session I, 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.

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