



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1616 (Patron – Gilbert, C.)

LD#: 13100177

Date: 1/11/2013

Topic: Unmanned aircraft

Fiscal Impact Summary:

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

- **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 adds § 19.2-56.3, relating to public unmanned aircraft, to the *Code of Virginia*. In addition to establishing numerous regulations for the possession, use, etc., of public unmanned aircraft, the proposal defines two new criminal offenses. Under the proposal, the unauthorized disclosure of the existence of a search warrant issued pursuant to the proposed § 19.2-56.3, an application for the search warrant, an affidavit filed in support of the warrant, or any personal information obtained as a result of the search warrant would be punishable as a Class 1 misdemeanor. Subsection N of § 19.2-56.3 prohibits the operation of an unmanned aircraft for the purpose of using the unmanned aircraft system as a weapon or to deliver a weapon against a person or property and prohibits the manufacture, sale, or distribution of an unmanned aircraft system for these purposes. By including a statement that this action would be punishable under § 18.2-46.6, the proposal appears to expand the definition of “weapon of terrorism” as used in that statute.

Currently, under § 18.2-46.6, possessing, using, etc., a weapon of terrorism or explosive material with the intent to commit an act of terrorism is a Class 2 felony. Possessing, etc., an imitation weapon of terrorism or explosive material with the intent to commit an act of terrorism is punishable as a Class 3 felony. Any person who uses, etc., an imitation weapon of terrorism with the intent to intimidate the civilian population, influence the government, compel an emergency evacuation, or place any person in reasonable fear of bodily harm is guilty of a Class 6 felony.

Analysis:

According to the Circuit Court Case Management System (CCMS)¹ for fiscal year (FY) 2011 and FY2012, three offenders were convicted of a Class 6 felony under § 18.2-46.6(C) for possessing, distributing, etc.,

¹ Formerly referred to as the Court Automated Information System (CAIS).

an imitation weapon of terrorism or other imitation device to intimidate others. This offense was the primary, or most serious, offense in all of the cases. Of these, one offender did not receive an active term of incarceration to serve after sentencing and the two remaining offenders were sentenced to state-responsible (prison) terms of two and four years, respectively.

The CCMS data for FY2011 and FY2012 also indicate that a violation of § 18.2-46.6(A) for possessing, etc., a weapon of terrorism or other device with the intent to commit an act of terrorism was the primary, or most serious, offense in one case. This offender was sentenced to a state-responsible (prison) term of 12 years.

Impact of Proposed Legislation:

State adult correctional facilities. If the proposal expands the definition of “weapon of terrorism” used in § 18.2-46.6 to include the operation of an unmanned aircraft under certain circumstances, the proposal 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 impact of the proposal on prison bed space cannot be determined. The impact, if any, is expected to be small.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined. The impact, if any, is likely to be small.

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 estimated, the potential impact on community corrections resources cannot be determined. However, any impact is likely to be small.

Virginia’s sentencing guidelines. Convictions under § 18.2-46.6 are not covered by the sentencing guidelines. A conviction under one of these provisions, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice (DJJ) reports that the proposal may have an impact on juvenile correctional center bed space needs. However, the actual impact cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that, while the proposal may have an impact on juvenile detention bed space needs, the actual impact 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.