



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2053

(Patron – Ware, O.)

LD#: 13102059

Date: 12/20/2012

Topic: Embezzlement

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, likely to be small
- **Juvenile Detention Facilities:**
Cannot be determined, likely to be small

* 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:

This proposal would add paragraph B to § 64.2-1615 of the *Code of Virginia*, regarding the Uniform Power of Attorney Act, to create a specific embezzlement offense for using power of attorney to fraudulently convert funds or other property from the principal.

It further clarifies, in § 64.2-1621, that penalties and criminal prosecution, available under other applicable sections of the *Code of Virginia*, apply to violations of the Uniform Power of Attorney Act.

Analysis:

According to Sentencing Guidelines data for fiscal year (FY) 2011 and FY2012, 1,045 cases included a conviction for embezzlement of \$200 or more under § 18.2-111. Embezzlement was the primary (or most serious) offense in 1,020 cases. While more than half (58.6%) did not receive an active term of incarceration to serve after sentencing, 29.6% received a local-responsible (jail) term, with a median sentence of two months. The remaining 11.8% received a state-responsible (prison) term, with a median sentence of two years. Information as to whether any of these cases may have involved the use of power of attorney to fraudulently convert funds or property is not available.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a specific embezzlement offense for using power of attorney to fraudulently convert funds or other property where one does not currently exist, 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 cannot be determined.

Local adult correctional facilities. Similarly, the proposal may have an impact on 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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections programs cannot be quantified.

Virginia's sentencing guidelines. Since this proposal would create a specific offense that does not currently exist, it is not covered by the sentencing guidelines as a primary (most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation as an additional offense, 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, the proposal may have a limited impact on juvenile correctional center bed space needs. However, the actual impact cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that, while the legislative proposal may have a limited 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.