



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 811

Amendment in the Nature of a Substitute

(Patrons Prior to Substitute – Garrett and McDougle)

LD#: 13105048

Date: 2/8/2013

Topic: Filing a false lien or encumbrance

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:

This proposal creates § 18.2-213.2, which makes it a Class 5 felony for any person to maliciously file a lien or encumbrance in a public record against the real or personal property of another knowing that such lien or encumbrance is false. The proposal requires the court to forward a copy of the conviction to the clerk of any jurisdiction in which a false lien or encumbrance has been filed. The clerk is required to remove such lien or encumbrance.

Analysis:

Existing fraud statutes in the *Code of Virginia* may not cover the filing of a false lien or encumbrance as described in the proposal. Existing databases do not contain sufficient detail to determine the number of felony convictions that may occur as the result of the proposal.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new Class 5 felony offense, which carries a penalty of incarceration for one to ten years, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

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

Adult community corrections programs. Because the proposal could result in additional felony convictions and subsequent supervision requirements for additional 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 determined.

Virginia’s sentencing guidelines. Because the proposal creates a new felony offense, convictions under the proposed section of the *Code* would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

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

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