



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 843 (Patron – Lewis)

LD#: 14102146

Date: 12/27/2013

Topic: Negligent use of fireworks

#### 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 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends several sections of the *Code of Virginia* relating to fireworks, the Statewide Fire Prevention Code, and State Fire Marshals. Under the proposed modifications to § 18.2-85, it would be a Class 6 felony to cause property damage or injury to a person from the negligent use of fireworks. The proposal also defines “restricted consumer fireworks,” “consumer fireworks,” and “display fireworks” and expands the definition of fireworks to include any object that emits sparks with audible or visual effects.

The proposed changes to § 27-96.1 state that the provisions of the Statewide Fire Prevention Code Act pertaining to fireworks do not apply to the use of consumer or restricted consumer fireworks on residential or agricultural property, unless prohibited by local ordinance. The provisions also would not apply to legally-obtained fireworks being transported to a locality where the fireworks are legally permitted. Currently, the exemption under § 27-96.1 applies to the sale or use of permissible fireworks on private property.

The amendments to § 27-97 would explicitly require that the Fire Prevention Code prohibit anyone younger than 18 years of age from purchasing fireworks and prohibit the storage of certain amounts of fireworks. In addition, under current law at least one person must be certified by the State Fire Marshal’s office as a fireworks operator or pyrotechnician at each fireworks display. The proposal does not require the presence of a certified fireworks operator if the display is conducted using consumer or restricted consumer fireworks on residential or agricultural property.

The proposal contains an enactment clause stating that provisions of the proposal would not become effective until January 1, 2015.

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**Analysis:**

General District Court Case Management System (CMS)<sup>1</sup> data for fiscal years 2012 and 2013 indicate that, when convicted of a local fireworks ordinance violation (as the primary, or most serious offense), the majority of offenders (97.4%) did not receive an active term of incarceration to serve after sentencing. The remaining two offenders were given a local-responsible (jail) term, with a median sentence length of slightly more than 15 days.

Existing data do not contain sufficient detail to determine the number of instances involving the negligent use of fireworks resulting in property damage or injury to an individual.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By establishing a new Class 6 felony offense, 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 could increase local-responsible (jail) bed space needs; however, 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 resources cannot be quantified.

**Virginia's sentencing guidelines.** Convictions under § 18.2-85 are not 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.** According to the Department of Juvenile Justice, 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 proposal may have an impact on juvenile detention bed space needs, the actual impact on juvenile detention facilities cannot be determined.

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**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 806 of the 2013 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.**

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<sup>1</sup> Formerly referred to as the Court Automated Information System (CAIS).