



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 208

(Patron – Carrico)

LD #: 14100432

Date: 12/20/2013

Topic: Offenses involving coal mines

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 modifies §§ 18.2-95 and 18.2-137 of the *Code of Virginia* to increase the penalty for certain offenses involving coal mines. Under the proposed amendments to § 18.2-95, larceny of any item with a value of \$100 or more from a coal mine whose taking or removal affects the health or safety of another would be punishable as grand larceny.

Currently, under § 18.2-95, larceny of less than \$200, not from a person, is punishable as a Class 1 misdemeanor. If the value of the goods is \$200 or more, the offender is guilty of grand larceny, which is punishable by up to 20 years imprisonment and a fine up to \$2,500. Offenders with prior larceny convictions are also subject to penalties defined by § 18.2-104; for a second misdemeanor larceny conviction, the penalty is 30 days to 12 months and, for a third or subsequent conviction, the penalty is one to five years.

The proposal would also increase the penalty for certain instances of vandalism. Currently, under § 18.2-137, damage to property valued at less than \$1,000 is a Class 1 misdemeanor; if the value is \$1,000 or more, the penalty is increased to a Class 6 felony. Under the proposal, vandalism of property located at a coal mine valued at more than \$100 whose damage or removal affects the health or safety of another would be punishable by a fine of \$3000 to \$10,000 and imprisonment for one to three years.

In addition, the proposal adds coal mines to § 18.2-119, which prohibits trespassing on the lands, buildings, or premises of another after being forbidden to do so. Trespassing is a Class 1 misdemeanor, punishable by up to 12 months in jail.

Finally, the proposal modifies § 15.2-1812.1 to allow for civil action to recover damages for vandalism of property and monuments.

Analysis:

Available data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted under §§ 18.2-95 and 18.2-137.

According to the Sentencing Guidelines database for fiscal year (FY) 2012 and FY2013, 7,562 offenders were convicted of grand larceny of \$200 or more under § 18.2-95 during this time period. This offense was the primary, or most serious, offense in 5,500 of the cases. Of these, 40.5% received a local-responsible (jail) term, with a median sentence length of three months. While nearly one-third (32.9%) did not receive an active term of incarceration to serve after sentencing, the remaining 26.6% received a state-responsible (prison) sentence with a median term of 1.8 years.

Sentencing Guidelines data for FY2012 and FY2013 also indicate that 496 offenders were convicted of a felony under § 18.2-137 for vandalism valued at \$1,000 or more. This offense was the primary, or most serious, offense for 187 offenders. Of these, 44.4% received a local-responsible jail term with a median sentence of six months. An additional 38.5% did not receive an active term of incarceration to serve after sentencing. The remaining 17.1% were sentenced to a state-responsible (prison) term. For offenders sentenced to a prison term of three years or less, the median sentence length was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for certain offenses involving coal mines when the health or safety of another is affected, 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 also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. Because the proposal could result in felony convictions and 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. As new felony offenses, convictions under the proposed amendments would not be covered by the sentencing guidelines as the primary, or most serious, offense in a case. 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 would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal’s impact on the bed space needs of 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 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.