



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1689

(Patron – Minchew)

LD#: 15102213

Date: 12/8/2014

Topic: Gifts and disclosures

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

*Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposed legislation amends numerous sections of the *Code of Virginia*, relating to gifts and filing of disclosure statements by legislators and state and local officials. The proposal retains the distinction between tangible and intangible gifts but modifies the definitions of both. Under the proposal, members of the General Assembly and certain state and local officials would be prohibited from accepting any single tangible or intangible gift with a value exceeding \$100 (reduced from \$250 for a tangible gift, as specified in current *Code*). Language limiting the combined total of gifts is removed. No official would be permitted to solicit or receive any gift if he or she has reason to know that it would be given to induce certain conduct or action in his or her official duties. The proposal specifies that gifts to immediate family members will be considered gifts to the official if the official approves acceptance of the gift and the official has reason to know that it was given because of his or her official position. The proposal prohibits the acceptance of intangible gifts (e.g., services, transportation, lodging, or meals) exceeding \$100 without first receiving approval from the Virginia Conflict of Interest and Ethics Advisory Council. On the disclosure form itself, only single gifts valued at more than \$50 would have to be reported; the requirement to report combinations of gifts totaling more than \$100 is removed. Finally, the proposal would reduce the punishment for first-time violations of the State and Local Government Conflict of Interests Act or the General Assembly Conflict of Interests Act, if related to the acceptance of gifts, from a Class 1 misdemeanor (punishable by up to 12 months in jail) to a civil penalty of \$250. Second or subsequent violations would remain Class 1 misdemeanors.

Currently, under § 30-123, any legislator who knowingly violates any provision of the General Assembly Conflict of Interests Act (§§ 30-102 through 30-111) is guilty of a Class 1 misdemeanor. In addition, the disclosure form for General Assembly members contains an Affirmation that the information is full, true, and correct. During the 2014 General Assembly session, the requirement that this disclosure form be notarized was replaced with the statement that a signature on the form is deemed to constitute a valid notarization and has the same effect as if performed by a notary public. If a false statement on the General Assembly disclosure form can be prosecuted in the same manner as false statements on notarized

documents, a violation could be prosecuted as perjury, which is punishable as a Class 5 felony under § 18.2-434. Per § 2.2-3120, an official who knowingly violates the State and Local Government Conflict of Interests Act (§§ 2.2-3102 through 2.2-3119) is guilty of a Class 1 misdemeanor or, for certain violations, a Class 3 misdemeanor.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal years (FY) 2010 to FY2014, one offender was convicted of a Class 1 misdemeanor under § 2.2-3112 for failing to disqualify himself from participating in a government transaction in which he had a personal interest. This offender did not receive an active term of incarceration to serve after sentencing. During the same five-year period, there were no misdemeanor convictions under § 30-123 for a violation of the General Assembly Conflict of Interests Act.

Impact of Proposed Legislation:

State adult correctional facilities. Under the proposal, General Assembly members would be required to report fewer gifts on the disclosure form. Thus, the proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Because it reduces the penalty for first-time gift violations, the proposal is unlikely to increase the local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections programs. The proposal will not increase the need for community corrections resources.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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