



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 273 (Patron – Wexton)

LD#: 16101134

Date: 12/21/2015

Topic: Obtaining services by fraud

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**

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 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 § 18.2-188 of the *Code of Virginia*, relating to defrauding businesses to obtain services. Under the proposal, this section would be expanded to include the defrauding of barbershops, body-piercing salons, cosmetology salons, esthetics spas, nail salons, tattoo parlors, waxing salons, and massage therapists. Any person who violates this section is guilty of a Class 5 felony or, if the value is less than \$200, a Class 1 misdemeanor.

Analysis:

According to the fiscal year (FY) 2010 through FY2015 Sentencing Guidelines database, 35 offenders were convicted of a Class 5 felony under § 18.2-188 for defrauding certain businesses. This offense was the primary, or most serious, offense in 24 cases. Of these, 41.7% did not receive an active term of incarceration after sentencing and 25% received a local-responsible (jail) term, with a median sentence of 7.5 months. The remaining 33.3% were sentenced to a state-responsible (prison) term, with a median sentence of 1.3 years.

General District Court Case Management System (CMS) data for FY2010 through FY2015 indicate that 608 offenders were convicted of a misdemeanor under § 18.2-188 for defrauding certain businesses. Slightly more than half of these offenders (58.2%) did not receive an active term of incarceration to serve after sentencing. The remaining 41.8% received a local-responsible (jail) sentence, with a median sentence length of 21 days.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from enactment of the proposal cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs. However, since the number of new convictions resulting from the proposal cannot be estimated, 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-188 are covered by the sentencing guidelines when this crime is the primary, or most serious, offense in a case. 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 665 of the 2015 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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