



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1954

(Patron – Webert)

LD#: 17100223

Date: 12/19/2016

Topic: Destroying farm products

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Direct Care:**  
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 780 of the 2016 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 § 18.2-145.1 of the *Code* regarding the destruction of farm products. Currently, any person or entity that maliciously damages or destroys any farm product, as defined in § 3.2-4709, knowing that the product is grown for testing or research purposes, is guilty of a Class 1 misdemeanor if the value of the product is less than \$200, or a Class 6 felony if the value of the product is \$200 or more. The proposal expands the definition of “farm products” to include any crops grown, growing, or to be grown. The proposal also provides that any person or entity that maliciously damages or destroys any farm products (other than those known to be grown for testing or research purposes), including any crops grown, growing, or to be grown, is guilty of a Class 1 misdemeanor if the value of the farm products is less than \$300, or a Class 6 felony if the value of the farm products is \$300 or more.

The proposal may overlap to some extent with existing provisions of the *Code*. Specifically, under § 18.2-81, maliciously burning or destroying any personal property, standing grain or other crop is a Class 1 misdemeanor if the value is less than \$200 or a Class 4 felony if the value is \$200 or more. Under § 18.2-46.7, an act of bioterrorism against agricultural crops or animals is punishable as a Class 3 felony.

#### Analysis:

According to the General District Court Case Management System (CMS), for fiscal year (FY) 2011 through FY2016, there were no misdemeanor convictions under § 18.2-145.1. During the same time period, no felony violations of this section were identified in Circuit Court CMS data.

According to Sentencing Guidelines data for FY2015 and FY2016, 43 offenders were convicted of felony violations of § 18.2-81 for maliciously burning or destroying personal property, standing grain or other

crops valued at \$200 or more. This offense was the primary, or most serious, offense in 27 cases. Of these, 26% did not receive an active term of incarceration after sentencing. However, 48% were given a local-responsible (jail) term, with a median sentence of six months, and 26% received a state-responsible (prison) term, with a median sentence of one year.

General District Court CMS data for FY2015 and FY2016 indicate that nine offenders were convicted of misdemeanor violations of § 18.2-81. Of these, three offenders (33%) did not receive an active term of incarceration to serve after sentencing, and six offenders (67%) were given a local-responsible (jail) term, for which the median sentence was 4.5 months.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing felony and creating a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may 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 subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. The potential impact on community corrections programs, however, cannot be determined.

**Virginia's sentencing guidelines.** Felony convictions under § 18.2-145.1 are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. However, convictions under this statute 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 direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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.

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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 780 of the 2016 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.**