



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 567 **(Patron – Gooditis)**

LD#: 18100901

Date: 12/05/2017

Topic: Gifts and disclosures

Fiscal Impact Summary:

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

- **Juvenile Direct Care:**
Cannot be determined**
- **Juvenile Detention Facilities:**
Cannot be determined**

**Provided by the Department of Juvenile

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation amends several sections of the *Code* related to the acceptance and reporting of certain gifts by legislators and other public officials. Currently, members of the General Assembly and other public officials, as well as members of their immediate family, are prohibited from soliciting, accepting or receiving any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within a calendar year from any person he knows or has reason to know is a lobbyist, a lobbyist's principal, or a person or organization seeking to do business with a public entity. Gifts of \$100 or less must be reported on disclosure statements (Statements of Economic Interests).

The proposal defines the term "bundled gift" and specifies that, for the purposes of the gift prohibition and the reporting of gifts on disclosure statements, the total aggregated value of the "bundled gift" must be attributed to each person who contributed to the gift. Further, a lobbyist will be deemed to have made a gift of the total value of any bundled gift to which the lobbyist or the lobbyist's principal contributed, regardless of the amount contributed by each individually.

Effective July 1, 2015, any legislator who knowingly and intentionally makes a false statement of a material fact on a disclosure form is guilty of a Class 5 felony pursuant to § 30-111. Per § 30-123, a legislator who knowingly violates any provision of the General Assembly Conflicts of Interests Act (§§ 30-102 through 30-111) is guilty of a Class 1 misdemeanor. Currently, a state or local official who knowingly and intentionally makes a false statement of a material fact on a disclosure form is guilty of a Class 5 felony per § 2.2-3117. Under § 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. Under § 2.2-426, a lobbyist who signs the disclosure statement knowing that it contains a material misstatement of fact is guilty of a Class 5 felony, while a violation of lobbyist regulations is a Class 1 misdemeanor under § 2.2-433.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2012 to FY2017, there were no misdemeanor convictions under § 30-123 for violations of the General Assembly Conflicts of Interests Act. Review of FY2016 and FY2017 Circuit Court CMS data indicates that there were also no felony convictions under § 30-111 for making a false statement on the disclosure form filed by legislators.

Based on FY2012-FY2017 General District Court CMS data, two state or local officials were convicted of misdemeanors under § 2.2-3112 for failing to disqualify themselves from participating in a government transaction in which they had a personal interest. Neither offender received an active term of incarceration to serve after sentencing. Circuit Court CMS data for the same six-year period indicate that there were no felony convictions under § 2.2-3117 for making a false statement on a disclosure form filed by a state and local official.

Based on FY2012-FY2017 General District Court CMS data, there were no misdemeanor convictions under § 2.2-433 for a violation of lobbyist regulations. Examining FY2012-FY2017 Circuit Court CMS data, there were no felony convictions under § 2.2-426 for a material misstatement by a lobbyist on a disclosure form during the six-year period.

Impact of Proposed Legislation:

State adult correctional facilities. By adding specifications for the reporting of gifts on the disclosure forms filed by lobbyists, legislators and other public officials, the proposal potentially expands the requirements for items that must be reported on the form. Should additional felony convictions result, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the databases available to the Commission do not contain sufficient detail to estimate the number of additional convictions that may result from the proposal. While the magnitude of the impact cannot be quantified, any impact is likely to be small.

Local adult correctional facilities. Similarly, the proposal could affect the local-responsible (jail) bed space needs of the Commonwealth. The magnitude of the impact cannot be determined, but any impact is likely to be small.

Adult community corrections programs. To the extent that the proposal could result in additional convictions with supervision requirements for the offenders, the proposal may affect adult community corrections resources. While the potential impact on community corrections cannot be quantified, any impact is likely to be small.

Virginia's sentencing 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.

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 836 of the 2017 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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