



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 623 (Patron – Bell, Robert B.)

LD #: 18104745

Date: 2/5/2018

Topic: False reports to law enforcement

#### 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 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 proposal amends § 18.2-461 of the *Code of Virginia* relating to falsely summoning or giving false reports to law enforcement. Currently, it is a Class 1 misdemeanor 1) to knowingly give a false report as to the commission of a crime to any law enforcement officer with the intent to mislead, or 2) without just cause and with intent to interfere with the operations of any law enforcement official, to call or summon law enforcement by any means, including activation of an automatic emergency alarm. Under the proposal, any violation that involves a report of an act of violence as defined in § 19.2-297.1 or results in an immediate emergency response would be increased to a Class 6 felony or, if the emergency response results in serious bodily injury or death, a Class 5 felony. The proposal would also require the offender to pay restitution to the locality or law enforcement agency in an amount to be determined by the court.

#### Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2016 and FY2017, 956 individuals were convicted of a Class 1 misdemeanor under § 18.2-461 for falsely summoning or making a false report to a law enforcement officer. More than two-thirds (68.8%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining one-third (31.2%) received a local-responsible (jail) term for which the median sentence was approximately 20 days.

Existing databases do not provide sufficient detail to identify the number of new felony convictions likely to result from enactment of the proposal. However, affected individuals may be sentenced similarly to those who are currently convicted of a felony for obstruction of justice.

Circuit Court (CMS) data for fiscal year (FY) 2016 and FY2017 indicate that four offenders were convicted of a Class 6 felony under § 18.2-462(B) for concealing or destroying evidence associated with a felony crime (as the primary, or most serious, offense at sentencing). Two of these offenders received a local-responsible (jail) term with sentences of one month and six months, respectively.

During the same two-year period, 63 offenders were convicted of a Class 5 felony under § 18.2-460(C) for obstruction of justice by threats of bodily harm or force or for obstruction of justice in relation to a violent felony offense or specified drug crime (in these cases, the obstruction charge was the primary, or most serious, offense at sentencing). Of these offenders, 41.3% received a local-responsible (jail) term with a median sentence of 3.5 months. Another 27.0% received a state-responsible (prison) term for which the median sentence was 2.0 years. The remaining 31.7% did not receive an active term of incarceration to serve.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By increasing the penalty for any existing misdemeanor to a Class 6 or Class 5 felony in certain circumstances, 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.** Similarly, the proposal may also increase local-responsible (jail) bed space needs. However, 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.** Convictions for the proposed felonies would not be covered by the sentencing guidelines when the 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 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.**