



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### **Senate Bill No. 778** **(Patron – Suetterlein)**

**LD#:** 18104494

**Date:** 1/9/2018

**Topic:** Fireworks

#### **Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
None (\$0)
- **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

#### **Summary of Proposed Legislation:**

The proposal amends several sections of the *Code of Virginia* relating to fireworks, the Statewide Fire Prevention Code, and State Fire Marshals. The proposed modifications to § 18.2-85 specify that any person who causes property damage or injury to another person due to the use of fireworks would be subject to prosecution under existing criminal statutes. The proposal also defines “consumer fireworks” and “display fireworks” and modifies the definitions of “devices” and “permissible fireworks.”

The proposed changes to § 27-96.1 specify that the provisions of the Statewide Fire Prevention Code Act pertaining to fireworks do not apply to the use of permissible or consumer fireworks on residential or agricultural property when the property owner has given consent. The provisions also would not apply to legally obtained fireworks being transported to a locality where the fireworks are legally permitted. Currently, the exemption under § 27-96.1 applies to the sale or use of permissible fireworks on private property.

The amendments to § 27-97 would explicitly require that the Fire Prevention Code prohibit anyone younger than 18 years of age from 1) purchasing fireworks and 2) possessing or using fireworks without adult supervision. While current law specifies that at least one person certified by the State Fire Marshal’s office as a fireworks operator or pyrotechnician must be present at each fireworks display, the proposal does not require the presence of a certified fireworks operator if the display is conducted using permissible or consumer fireworks on residential or agricultural property.

The proposal contains an enactment clause stating that the provisions of the proposal would not become effective until January 1, 2019.

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**Analysis:**

General District Court Case Management System (CMS) data for fiscal years 2016 and 2017 indicate that 50 offenders were convicted of a local fireworks ordinance violation (as the primary, or most serious, offense at sentencing). One offender received a local-responsible (jail) term of four days; the remaining offenders (98%) did not receive an active term of incarceration to serve after sentencing.

Current provisions do not preclude the prosecution of individuals under existing statutes when the use of fireworks results in property damage or injury to another. Available data do not contain sufficient detail to determine the number of instances involving the use of fireworks resulting in property damage or injury.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it does not expand the applicability of any felony penalties, the proposed legislation is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

**Local adult correctional facilities.** The proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

**Adult community corrections programs.** The impact of the proposal on community corrections resources cannot be determined.

**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 an 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**