



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1741 (Patron – Bulova)

LD#: 19103572

Date: 12/19/2018

Topic: False statements to obtain benefits under government program

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 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-186.2, relating to false statements or failure to disclose material facts in order to obtain aid or benefits under any local, state, or federal housing assistance program. Currently, any person who (i) knowingly makes a false statement in writing or fails to disclose any material fact concerning the financial means or ability to pay of himself or of any other person for whom he is acting for the purpose of procuring aid and benefits available under any local, state, or federally funded housing assistance program, or (ii) knowingly fails to disclose a change in circumstances in order to obtain or continue to receive aid or benefits under any such program to which he is not entitled or who knowingly aids and abets another person in the commission of such an act is guilty of a Class 1 misdemeanor, regardless of the amount of the aid or benefits obtained.

Under the proposal, a person who violates § 18.2-186.2 would be guilty of larceny. If the amount of aid or benefits obtained is \$500 or more, the person would be guilty of grand larceny, a felony punishable by imprisonment of 1 to 20 years (§ 18.2-95). If the amount of aid or benefits obtained is less than \$500, the person would be guilty of petit larceny, a Class 1 misdemeanor (§ 18.2-96).

Analysis:

According to fiscal year (FY) 2017 and FY2018 General District Court Case Management System (CMS) data, there were 10 Class 1 misdemeanor convictions under 18.2-186.2 for unlawfully obtaining housing assistance or benefits. However, existing data sources do not provide sufficient detail to determine how many of these offenses involved a value of \$500 or more and would be elevated to a felony by the proposed legislation. If the proposal were enacted, individuals convicted of the new felony may be

sentenced similarly to those currently convicted of a felony under § 63.2-522, relating to fraudulently obtaining welfare assistance.

Sentencing Guidelines data for FY2017-FY2018 indicate that there were 129 felony convictions under § 63.2-522 for fraudulently obtaining welfare assistance. This was the primary, or most serious, offense in 121 of the cases. The majority (71.9%) of these offenders did not receive an active term of incarceration to serve after sentencing. Another 23.1% of the offenders received a local-responsible (jail) term, for which the median sentence was 6.5 months. The remaining 5% were sentenced to a state-responsible (prison) term. For offenders committed to prison, the median sentence length was 1.6 years.

A review of FY2017-FY2018 General District Court Case Management System (CMS) data shows that there were 32 misdemeanor convictions under § 63.2-522 for fraudulently obtaining welfare assistance. Of these, the majority (81.2%) did not receive an active term of incarceration to serve after sentencing. The remaining 18.8% received a local-responsible (jail) term with a median sentence of 1.8 months.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for unlawfully obtaining housing assistance or benefits from a Class 1 misdemeanor to a felony when the value is \$500 or more, the proposal may result in additional felony convictions punishable by imprisonment of up to 20 years. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate the number of additional felony convictions that may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

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 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. As a new felony offense, convictions under § 18.2-186.2 would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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 2 of the Acts of Assembly of 2018, Special Session I, 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.