



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1112

Amendment in the Nature of a Substitute

(Patron Prior to Substitute – Howell)

LD#: 19105662 (Revised)

Date: 01/28/2019

Topic: Student loans and licensing of education loan servicers

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:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** 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 proposal defines qualified education loan servicers and establishes licensing and registration requirements for such entities. Applications for a license must be filed with the State Corporation Commission, which will conduct an investigation to ensure the applicant meets specified qualifications. The application must be made in writing on a form provided by the State Corporation Commission. The application must not contain any false statement of a material fact or omit any statement of material fact required under the proposal. Once issued a license under the proposal, certain reporting requirements would apply. The proposal specifies conditions and the process under which a license may be suspended or revoked.

The State Corporation Commission may impose a civil penalty not to exceed \$2,500 for a violation of any provision or regulation specified in the proposal. However, the proposed § 6.2-2611 specifies that any person conducting investigations or examinations associated with the bill's requirements will have authority to administer oaths, examine persons under oath, and compel the production of papers and objects of all kinds. Under § 18.2-434, a person to whom an oath is lawfully administered willfully who swears falsely to any material matter may be prosecuted for perjury under § 18.2-434, a Class 5 felony. In Title 6.2 (related to financial institutions), making a false statement on any of the reports or documents specified in §§ 6.2-864, 6.2-1121, 6.2-1025, 6.2-1029 or 6.2-1051 is punishable as perjury; those *Code* sections apply to banks, savings institutions, trust companies and trust subsidiaries.

The bill contains an enactment clause delaying the effective date to July 1, 2020.

Analysis:

Sentencing Guidelines data for fiscal year (FY) 2017 and FY2018 indicate that 72 offenders were convicted of a Class 5 felony for falsely swearing an oath under § 18.2-434. The perjury offense was the primary, or most serious, offense at sentencing in 47 of the cases. Of these, 44.7% of the offenders did not receive an active term of incarceration to serve after sentencing. Another 51.1% of the offenders were given a local-responsible (jail) term for which the median sentence was 6.5 months. The remaining 4.3% received a state-responsible (prison) term with a median sentence of 4.6 years.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2013 through FY2018, no offenders were convicted for the specific perjury offenses defined in §§ 6.2-864, 6.2-1121, 6.2-1025, 6.2-1029 or 6.2-1051. However, it may be possible that such individuals can be convicted under the more general perjury statute (§ 18.2-434).

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. While the magnitude of the impact cannot be determined, any impact is likely to be small.

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

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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified. However, any such impact is likely to be small.

Virginia's sentencing guidelines. Felony convictions under § 18.2-434 are covered by the sentencing guidelines as the primary, or most serious, offense. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal will not impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal will not impact the bed space needs of juvenile detention facilities.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.