



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1123 (*Patron – Peake*)

LD#: 19101628

Date: 12/20/2018

Topic: Threats by means of telephone or wireless communications device

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:

Currently, under § 18.2-60, communicating a threat to kill or do bodily injury in writing or by other visual representation to a person or a member of that person's family is a Class 6 felony if it places the person in reasonable fear of death or bodily injury to himself or a family member. If the threat is made with the intent to commit an act of terrorism, the penalty is increased to a Class 5 felony. The proposal would add threats over any telephone or wireless communication device to § 18.2-60 so that any person who communicates a threat over a telephone or wireless communication device to kill or do bodily injury to a person, regarding that person or any member of that person's family, and the threat places the person in reasonable apprehension of death or bodily injury to himself or his family member would be guilty of a Class 6 felony.

Analysis:

According to the fiscal year (FY) 2017 and FY2018 Sentencing Guidelines database, 82 offenders were convicted of a Class 6 felony for communicating a threat in writing under § 18.2-60. In 70 cases, this was the primary (most serious) offense in the sentencing event. Of these offenders, 40.0% received a state-responsible (prison) term, with the median sentence being 1.8 years. An additional 41.4% were sentenced to local-responsible (jail) terms, and the median sentence for these offenders was seven months. The remaining 18.6% were not sentenced to an active term of incarceration to serve after sentencing. Circuit Court Case Management System (CMS) data indicated that there was one conviction for the existing Class 5 felony under § 18.2-60 during this time; this offender was sentenced to serve three months in jail.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new Class 6 felony under the amended § 18.2-60, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. 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. As a new felony, convictions under the proposed amendment to § 18.2-60 would not be covered by the sentencing guidelines when this crime is the primary (most serious) offense. A conviction for such an offense, however, 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.

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.

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