



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1166 (Patron – Wampler)

LD#: 20103605

Date: 12/10/2019

Topic: Accounts and reports filed by fiduciaries and guardians

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 854 of the 2019 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 § 64.2-1305 and § 64.2-2020 to specify that any account filed by a fiduciary with the commissioner of accounts and any annual report filed by a guardian with the local department of social services must be signed under oath. Under § 18.2-434, a person to whom an oath is lawfully administered who willfully and falsely swears to any material matter may be prosecuted for perjury, a Class 5 felony. Currently, no criminal penalty is specified for making a false statement on an account or report required by these *Code* sections.

Analysis:

Existing data do not contain sufficient detail to estimate the number of additional individuals who may be convicted of perjury if the proposal were enacted. However, affected offenders may be sentenced similarly to those who are currently convicted of perjury under § 18.2-434 for falsely swearing an oath.

Sentencing Guidelines data for fiscal year (FY) 2018 and FY2019 indicate that 74 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 51 of the cases. Of these, 33.3% of the offenders did not receive an active term of incarceration to serve after sentencing. Another 51% of the offenders were given a local-responsible (jail) term for which the median sentence was three months. The remaining 15.7 % received a state-responsible (prison) term with a median sentence of 1.7 years.

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. As a result, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth. 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 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.

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 is not expected to 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 is not expected to 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 854 of the 2019 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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