



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1211 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Tran)

LD#: 20107009

Date: 01/30/2020

Topic: DMV Documents and Citizenship Requirements

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 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 numerous sections of the *Code* relating to operator's licenses, learner's permits, REAL ID driver's licenses and special identification cards. As part of the proposal, §§ 46.2-334.1 and 46.2-335.1 of the *Code*, related to driver's licenses knowledge tests, are repealed and moved to other sections of the *Code*. As proposed, any person who fails the knowledge examination for a learner's, motorcycle or commercial driver's permit may retest after five days. The proposal also removes the citizenship and legal presence requirements for obtaining a driver's license or special identification card. The Department of Motor Vehicles (DMV) would be required to cancel any REAL ID-compliant driver's license or special identification card or commercial driver's license or commercial learner's permit if the Department is notified by a federal agency that the individual to whom such document was issued is not in compliance with the citizenship and lawful residency requirements for such license, card, or permit. Any false statement on a DMV application would continue to be punishable as felony perjury under the proposal. The proposed requirements and technical amendments would be delayed until January 1, 2021.

Currently, under § 46.2-105, any person who knowingly makes a false affidavit or swears falsely to any matter required by Title 46.2 or the Commissioner of the DMV to be sworn to or affirmed is guilty of perjury, which is punishable as a Class 5 felony. Section 46.2-348 currently prohibits knowingly making a false statement or concealing a material fact or otherwise committing a fraud in any application for a driver's license or escort vehicle driver certificate. If the fraud is committed with the intent to purchase a firearm or to use as proof of residency for the state's Sex Offender and Crimes against Minors Registry, a violation of § 46.2-348 is a Class 4 felony.

Under the current *Code* § 46.2-345, any person who uses a false or fictitious name or address, knowingly makes a false statement, conceals a material fact, or commits a fraud in any application for a special

identification card would be guilty of a Class 2 misdemeanor. However, if the special identification card is obtained for the purpose of committing any felony, it would be a Class 4 felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal years 2014 through 2019, 29 offenders were convicted of perjury under § 46.2-105 during this period. The perjury charge was the primary, or most serious, offense in 20 cases. While the majority (65.0%) of these offenders did not receive an active term of incarceration to serve after sentencing, 30.0% were sentenced to local-responsible (jail) terms for which the median sentence length was 4.5 months. One offender was sentenced to serve a state-responsible (prison) term of 1.3 years.

Impact of Proposed Legislation:

State adult correctional facilities. Modifying the types of documents that may be certified for obtaining licenses, permits or identifications through the Department of Motor Vehicles may increase the opportunity for individuals to commit a fraud or false statement. As a result, the proposal may increase the number of felony convictions under § 46.2-105. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

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

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia's sentencing guidelines. Felony convictions under §§ 46.2-105 are not covered by the sentencing guidelines when this crime is the primary, or most serious, offense in a case. However, a conviction for this offense 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 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.