



## **Fiscal Impact Statement for Proposed Legislation**

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### ***Virginia Criminal Sentencing Commission***

#### **House Bill No. 1553** ***(Patrons – Willett and Rasoul)***

**LD#:** 20105424

**Date:** 1/10/2020

**Topic:** Debt settlement service providers

#### **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.

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#### **Summary of Proposed Legislation:**

The proposal adds several sections to the *Code of Virginia* to establish administrative procedures, licensing requirements, and oversight of debt settlement service providers by the State Corporation Commission. The proposed requirements for licensed providers of debt settlement services are similar to those applicable to agencies providing debt management plans. The measure provides for civil penalties against licensees that violate these requirements, grants consumers a private right of action against licensees, and makes a violation a prohibited practice under the Virginia Consumer Protection Act. Any person engaging in the business of debt settlement services without a license would be guilty of a Class 1 misdemeanor; for purposes of this section, each violation would constitute a separate offense.

Under the proposed § 6.2-2028, an application for a license as a debt settlement service provider must be made in writing, under oath, on a form provided by the State Corporation Commission. 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.

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#### **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.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it creates a new felony offense punishable as perjury, the proposed legislation may increase the 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 (DJJ), the impact of the proposal on juvenile correctional center 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.

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**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.**

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