



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 666 (Patron – Mullin)

LD#: 20100663

Date: 01/09/2020

Topic: Definition of dead body

#### 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

\* 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:

Under the proposed amendment to § 32.1-249, the definition of a dead body is expanded to include human bodies or body parts in any state of decomposition regardless of whether death recently occurred. Under the current law, a dead body means a human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred.

By expanding the definition of dead body in § 32.1-249, the proposal potentially expands the applicability of other provisions of the *Code* that directly or indirectly reference the definition of a dead body. Currently, under § 18.2-323.02, it is a Class 6 felony for any person to transport, secrete, conceal or alter a dead body, as defined in § 32.1-249, with malicious intent and to prevent detection of an unlawful act or to prevent detection of the death or the manner or cause of death. Under § 18.2-323.01, it is a Class 1 misdemeanor to dispose of a dead body, as defined in § 32.1-249, on private property without the written permission of the landowner or on public property. Lastly, under existing § 18.2-126, unlawfully disinterring or displacing a dead human body or any part of a dead human body which has been deposited in any vault, grave, or other burial place is punishable as a Class 4 felony. Under the same statute, it is a Class 6 felony if a person willfully and intentionally physically defiles a dead human body.

#### Analysis:

Existing data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted of the specific offenses discussed above.

According to Circuit Court Case Management System (CMS) data for fiscal years (FY) 2018 and 2019, 18 offenders were convicted of concealing a dead body under § 18.2-323.02. This offense was the primary, or most serious, offense in six of the cases. All the offenders received state-responsible (prison) terms with a median sentence length of 1.5 years. The same data indicates that only one offender was convicted under § 18.2-126 for willfully and intentionally physically defiling a dead human body. It was not a primary, or most serious, offense.

According to fiscal year (FY) 2018 and FY2019 General District Court Case Management System data, one offender was convicted under § 18.2-323.01 for disposing of a dead body on private property without the written permission of the landowner. The offender did not receive an active term of incarceration to serve after sentencing.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it expands the applicability of certain felony offenses involving a dead body, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases 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 beds cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

**Adult community corrections resources.** Because the proposal could result in more felony and misdemeanor convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. However, the potential impact on state and local community corrections programs cannot be determined.

**Virginia's sentencing guidelines.** Convictions under § 18.2-323.02 or § 18.2-126 are not covered by the sentencing guidelines as the primary (most serious) offense. Such convictions, 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.

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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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