



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### Senate Bill No. 222 (Patron – DeSteph)

LD#: 20101135

Date: 12/27/2019

Topic: Harvest of menhaden after closure of fishery

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Direct Care:**  
Cannot be determined\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*

\*Provided by the Department of Juvenile Justice

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#### Summary of Proposed Legislation:

The proposal amends § 28.2-400.4 of the *Code of Virginia*, relating to harvest of menhaden after closure of the fishery. Currently, under § 28.2-400.4, harvesting menhaden for bait or reduction purposes after the portion of the total allowable landings for the sector in which that the person holds a license has been closed is prohibited. An exception provided in § 28.2-400.4 (A)(3) specifies that, after the closure is announced, any person licensed in the non-purse seine menhaden bait sector may possess and land up to 6,000 pounds of menhaden per day. Any person who violates § 28.2-400.4 is guilty of a Class 1 misdemeanor. The proposal would increase the current penalty to a Class 6 felony, punishable by confinement in a state correctional facility for a maximum term of five years.

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#### Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2014 through FY 2019, no offenders were convicted of a Class 1 misdemeanor in violation of § 28.2-400.4.

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#### Impact of Proposed Legislation:

**State adult correctional facilities.** By elevating the penalty for an existing offense from a misdemeanor to a felony, the proposal could have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. According to the most recent six years of available data, however, there were no convictions under § 28.2-400.4. Therefore, the proposal is unlikely to increase prison bed space needs during the six-year window specified by § 30-19.1:4 for legislative impact statements.

**Local adult correctional facilities.** Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

**Adult community corrections programs.** The proposal is not expected to increase the need for adult community corrections resources.

**Virginia's sentencing guidelines.** Convictions under § 28.2-400.4 would not be covered by the sentencing guidelines when the offense is the primary, or most serious, offense at sentencing. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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.** According to the Department of Juvenile Justice, the impact of the proposal 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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