



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 34 Amendment in the Nature of a Substitute (Patrons Prior to Substitute – Surovell and Boysko)

LD#: 20109920

Date: 3/9/2020

Topic: Driver privilege cards and permits

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 and similar documents. It authorizes the issuance of new driver privilege cards by the Department of Motor Vehicles (DMV) under certain conditions. The bill provides for the term "driver's license" to consistently refer to all driver's licenses, permits, driver privilege cards, and special identification cards issued by the Commonwealth or the comparable law of another jurisdiction.

Currently, under § 46.2-328.1, licenses, permits, and special identification cards may only be issued to United States citizens, legal permanent resident aliens, and holders of valid unexpired nonimmigrant visas, with few exceptions. The proposed § 46.2-328.1 would expand issuance eligibility to approved asylum applicants, entrants into the United States in refugee status, citizens of the Freely Associated States¹, and applicants who present evidence of lawful status in the United States from a federal court or federal agency or per REAL ID applicant requirements. Upon application of certain individuals who do not meet the above expanded requirements for a driver's license or permit, the DMV could issue a driver privilege card or permit if specified criteria are met. Per proposed § 46.2-328.3, the Department would be required to determine that the applicant (i) has reported income and deductions from Virginia sources or been claimed as a dependent on an income tax return filed with the Commonwealth in the preceding 12 months, and (ii) is not in violation of certain insurance requirements. The proposal also modifies several other sections of the *Code* to accommodate the new provisions. The bill has a delayed effective date of January 1, 2021.

¹ The Federated States of Micronesia, the Republic of Palau, and the Republic of the Marshall Islands.

Pursuant to § 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.

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. Expanding the number of individuals who may complete an application submitted to the Department of Motor Vehicles may increase the opportunity for individuals to commit a fraud or false statement on this form. 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.

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