



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 64 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Lucas)

LD#: 20106379

Date: 2/04/2020

Topic: Paramilitary activity

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 expands § 18.2-433.2 of the *Code of Virginia*, relating to prohibited paramilitary activity. Under the proposal, it would be a Class 5 felony to commit a violation of subsection A of § 18.2-282 (brandishing a firearm) while assembled with one or more persons with the intent to intimidate a person or group of persons with any firearm, any explosive or incendiary device, or any components or combination thereof.

Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2018 and FY2019 indicate that 656 offenders were convicted of a Class 1 misdemeanor for brandishing a firearm under § 18.2-282(A). However, it is unclear how many of these offenders would be affected by the proposed changes to § 18.2-433.2. Affected offenders may be sentenced similarly to those who are currently convicted under the existing provisions.

According to Circuit Court CMS data for fiscal year (FY) 2014 through FY2019, there was one conviction under § 18.2-433.2. The violation of § 18.2-433.2 was not the primary (or most serious) offense in the event. Although the offender received an active state-responsible (prison) sentence for the more serious offense, the conviction for paramilitary activity resulted in an imposed sentence of five-years with all of that time suspended.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing felony, 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 likely to 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 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. Convictions under § 18.2-433.2 are not covered by the sentencing guidelines as the primary (or most serious) offense. 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. 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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