Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 960

(Patron – Ruff)

LD#: 20104736 **Date:** 1/8/2020

Topic: Dominant Skill Video Games

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 adds several sections to the *Code of Virginia* relating to dominant skill video games (DSVGs). The proposed § 58.1-4030 defines "dominant skill video game" as follows:

"[A] game system with game software (i) in which the outcome is based on an individual's use of strategy and skill rather than any inherent element of chance; (ii) that requires the use of skill in each play and throughout the course of a session in order for the player to win a prize; (iii) that enables a player to preview the next game outcome without consideration; (iv) that is such that the general public can learn to score and win prizes; and (v) that, in the event that a player utilizes a perfect play strategy, such player has the ability, on every play, to win more prize money than such player spent to initiate a single game play."

The proposal sets forth administrative procedures, licensing frameworks, and operation requirements for DSVGs, designates the Virginia Lottery Board (VLB) to regulate the games, and establishes new offenses relating to their play. Respective licenses issued by the VLB would be required to manufacture, distribute, operate, or own an establishment that hosts, DSVGs in The Commonwealth. The VLB would be charged to begin issuing new licenses by January 1, 2021, and provisional licenses would be issued for existing DSVGs within 60 days of the act's effective date. Licensed bars and organizations conducting charitable gaming would be permitted to host up to five DSVGs, and licensed truck stops may host up to ten.

The proposal defines several offenses that would be punishable as Class 1 misdemeanors, including: any person under the age of 18 who plays a DSVG or anyone who redeems game winnings from a person under the age of 18; any person who makes a false statement in any game license application; and any host that gives a reward for an unauthorized DSVG, gives a reward that is redeemable off the host location's premises, hosts more games than permitted by their license, or permits a person under the age of 18 to play a DSVG.

The proposal also defines several offenses that would be punishable as Class 6 felonies, including: manufacturing, distributing, operating, or hosting a DSVG without a license; anyone but an operator possessing a key to a gaming device, or any person tampering with a device; and conspiring, confederating, or combining with another to commit any felony prohibited under the proposed Article 2 in Chapter 40 of Title 58.1.

Currently, under § 18.2-328, operating an illegal gambling enterprise is a Class 6 felony. An operator who engages in an illegal gambling operation that is in continuous operation for more than 30 days or who has a gross revenue of $2,000 or more in a single day is subject to imprisonment for one to ten years.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2018 and FY2019, one offender was convicted of a felony under § 18.2-328 for operating a continuous illegal gambling operation. This was the primary, or most serious, offense at sentencing. This individual did not receive an active term of incarceration to serve after sentencing.

Under § 58.1-4018, fraudulently tampering with lottery machinery is a Class 3 felony subject to imprisonment for five to twenty years. According to the Circuit Court CMS for FY2014 through FY2019, there have been no convictions for this offense in the past six years.

Existing data do not contain sufficient detail to determine the number of felony convictions that may occur as the result of the proposal.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates new felony offenses, 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 and misdemeanor 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. Since the proposal defines new felony offenses, convictions under the proposed sections of the *Code* would not be 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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