



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 5067 ***(Patron – McGuire)***

LD#: 20200624

Date: 08/18/2020

Topic: Using a person's identity with intent to coerce, intimidate or harass

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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-186.4 related to using a person's identity with intent to coerce, intimidate or harass. Currently, it is a Class 1 misdemeanor for any person, with the intent to coerce, intimidate, or harass another person, to publish the person's name or photograph along with identifying information or identification of the person's primary residence address. The penalty is increased to a Class 6 felony if the individual who violates this section knew, or had reason to know, that the targeted person was a law enforcement officer; conviction of the Class 6 felony carries a mandatory minimum sentence of six months.

The proposal expands the existing Class 1 misdemeanor to also prohibit identification of the primary residence of the targeted person's family or household member. In addition, the proposal expands the Class 6 felony, currently applicable to law enforcement officers, to include all public officials defined in § 18.2-186.4:1.

Analysis:

According Circuit Court Case Management System (CMS) data for to fiscal year (FY) 2014 through FY2019, there were no felony convictions under § 18.2-186.4 for using a law enforcement officer's identify to coerce, intimidate or harass. During this six-year period, four offenders were convicted in Circuit Court of the Class 1 misdemeanor in § 18.2-186.4. Three of the four offenders did not receive an active term of incarceration to serve after sentencing. The remaining offender received a local-responsible (jail) term of 1.5 months. CMS data for the same time period indicate that another six

offenders were convicted of the Class 1 misdemeanor in General District Court. Two offenders received an active jail term of 12 months each.

The number of incidents that would be covered under the expanded provisions of the proposal cannot be identified with available data.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing felony offense, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of new felony convictions that would result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By expanding an existing felony and misdemeanor, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact on jail bed space needs cannot be estimated with existing data.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for additional 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 cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-186.4 are not covered by the sentencing guidelines as the primary (most serious) offense. However, convictions under this statute 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 1289 of the Acts of Assembly of 2020 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.