



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 5098 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Askew)

LD #: 20201045

Date: 8/27/2020

Topic: False reports to law enforcement

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 § 18.2-461 of the *Code of Virginia* relating to falsely summoning or giving false reports to law enforcement. Currently, it is a Class 1 misdemeanor 1) to knowingly give a false report as to the commission of a crime to any law enforcement officer with the intent to mislead, 2) to knowingly and with the intent to mislead law enforcement cause another to give a false report by simulating a crime against person or property, or 3) without just cause and with intent to interfere with the operations of any law enforcement official to call or summon law enforcement by any means, including activation of an automatic emergency alarm.

Under the proposal, it would be a Class 6 felony for any person to intentionally give a false report as to the commission of a crime, cause another to give a false report about the commission of a crime, or call or summon a law-enforcement official against another person because of his race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin.

Analysis:

According to General District Court Case Management System (CMS) data for fiscal year (FY) 2018 and FY2019, 812 individuals were convicted of a Class 1 misdemeanor under § 18.2-461 for falsely summoning or making a false report to a law enforcement officer. More than two-thirds (69%) of these

offenders did not receive an active term of incarceration to serve after sentencing. The remaining one-third (31%) received a local-responsible (jail) term for which the median sentence was approximately 22 days.

Existing databases do not provide sufficient detail to identify the number of new felony convictions likely to result from enactment of the proposal. However, affected individuals may be sentenced similarly to those who are currently convicted of a felony hate crime under § 18.2-57 or § 18.2-121.

Circuit Court CMS data for FY2018 and FY2019 indicate that four offenders were convicted of a Class 6 felony hate crime under § 18.2-57(B) or § 18.2-121 (as the primary, or most serious, offense at sentencing). Three of these offenders received a local-responsible (jai) term; one offender received a sentence of nine months, while two offenders each received a sentence of 12 months. The remaining offender received a state-responsible (prison) term of two years.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for any existing misdemeanor to a Class 6 felony in certain circumstances, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from enactment of the proposal cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may also increase local-responsible (jail) bed space needs. 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Convictions for the proposed felony would not be covered by the sentencing guidelines when the offense is the primary, or most serious, offense in a case. 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.