



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1936 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Watts)

LD#: 21200240

Date: 02/16/2021

Topic: Robbery

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None
- **Adult Community Corrections Programs:**  
None

- **Juvenile Direct Care:**  
Cannot be determined\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*

\* Provided by the Department of Juvenile Justice

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only address the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with, or any revenue that may be generated by, the proposed legislation.

#### Summary of Proposed Legislation:

The proposal amends § 18.2-58 of the *Code* to redefine robbery and to create degrees of punishment based on characteristics of the offense. Under the proposal, any person who commits a robbery by causing serious bodily injury to or the death of any other person is guilty of a Class 2 felony, which is punishable by confinement in a state correctional facility for a maximum term of life. Any person who commits robbery by using or displaying a firearm, as defined in § 18.2-308.2:2, in a threatening manner is guilty of a Class 3 felony, which is punishable by confinement in a state correctional facility for a maximum term of 20 years. Any person who commits robbery by using physical force not resulting in serious bodily injury, or by using or displaying a deadly weapon other than a firearm in a threatening manner, is guilty of a Class 5 felony, which is punishable by confinement in a state correctional facility for a maximum term of 10 years. Any person who commits robbery by using threat or intimidation or any other means not involving a deadly weapon is guilty of a Class 6 felony (imprisonment up to five years).

Under current law, any robbery is punishable by confinement in a state correctional facility for life or any term not less than five years; however, a judge may suspend time from the imposed sentence.

#### Analysis:

According to FY2019 and FY2020 Sentencing Guidelines (SG) data, a conviction for robbery (§ 18.2-58) was the primary (or most serious) offense in 887 sentencing events. The majority of the offenders (88.2%)

were sentenced to a state-responsible (prison) term for which the median sentence was 5.6 years. Another 4.7% of the offenders received a local-responsible (jail) term with a median sentence length of six months. The remaining 7.1% of offenders did not receive an active term of incarceration to serve after sentencing.

While specific elements of robbery cases are not captured in automated data systems, elements of the proposal can be approximated using sentencing guidelines data. The sentencing guidelines for robbery offenses include a factor to account for victim injury. A guidelines score for life threatening injury to a victim can be used to identify offenders who would likely qualify for the proposed robbery punishable as a Class 2 felony. A guidelines score for use of a firearm (which includes a threat to use a firearm) can be utilized to identify offenders who may qualify for the proposed robbery punishable as a Class 3 felony. Similarly, a score indicating the use of a weapon other than a firearm may approximate the proposed robbery punishable as Class 5 felony. Sentencing outcomes in robbery cases, based on the elements scored on the guidelines, are shown in the table below.

Larceny from a person (e.g., pickpocketing) involving \$5 or more is currently a felony punishable by imprisonment of 1 to 20 years (§ 18.2-95).

**Offenders Convicted of Robbery As Primary Offense, FY2019-FY2020**

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence	Cases Sentenced Above Proposed Statutory Maximum
Robbery with life threatening injury (may not include serious bodily injury)	34	5.9%	2.9%	9 months	91.2%	7.4 years	N/A (Life sentence maximum)
Robbery with an additional offense of use of firearm (includes attempted use of firearm)	307	0.3%	0.3%	11 months	99.3%	8.0 years	15 (4.9%) Sentenced to more than 20 years
Robbery with use of weapon other than a firearm	142	7.0%	6.3%	6 months	86.6%	5.0 years	22 (15.5%) Sentenced to more than 10 years
Robbery not involving a deadly weapon	404	12.4%	7.7%	6 months	80.0%	4.0 years	113 (28.0%) Sentenced to more than 5 years
<b>Summary</b>	<b>887</b>	<b>7.1%</b>	<b>4.7%</b>	<b>6 months</b>	<b>88.2%</b>	<b>5.6 years</b>	<b>182 (20.5%)</b>

Source: Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2019-FY2020

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal would reduce the statutory maximum penalty for the majority of robbery offenses. Currently, the statutory penalty range for all robberies is five years up to life in prison. Except in cases causing serious bodily injury to or the death of any other person, the proposed statutory maximum would be 5, 10, or 20 years based on other elements of the robbery offense. Median prison sentences in recent robbery cases are within the reduced statutory maximums proposed. The proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.<sup>1</sup>

**Local adult correctional facilities.** By reducing the penalty structure for robbery, the proposal is not likely to increase local-responsible (jail) bed space needs. Current sentencing patterns include cases sentenced to jail and these sentencing patterns are not likely to change based on the proposal.

**Adult community corrections resources.** The proposal will not increase the need for adult community corrections resources.

**Virginia's sentencing guidelines.** Violations of § 18.2-58 are currently covered by the sentencing guidelines. If the legislation is enacted, the guidelines recommended range would be capped at the applicable statutory maximum. The Sentencing Commission in the future would conduct detailed analyses of sentencing patterns under the new provisions to determine if revisions to the guidelines are necessary.

**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.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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<sup>1</sup> Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only address the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.