



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1461 **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – Lewis)***

LD#: 21200099

Date: 02/11/2021

Topic: Bribery in correctional facilities

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.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include 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.

Summary of Proposed Legislation:

The proposal adds § 18.2-474.2 to the *Code of Virginia* relating to bribery in correctional facilities. Under the proposal, any person who receives any pecuniary benefit or other consideration to act in violation of § 18.2-474 (delivery of articles to prisoners or committed person) or 18.2-474.1 (delivery of drugs, firearms, explosives, etc. to prisoners or committed persons) would be guilty of bribery, punishable as a Class 4 felony. In addition, the proposal specifies that any law-enforcement officer, jail officer, or correctional officer who violates the provision of this bill shall be decertified and forever ineligible for reemployment as a law-enforcement officer, jail officer, or correctional officer in the Commonwealth.

Currently, under § 18.2-447, it is a Class 4 felony for any person to (1) offer, confer, or agree to confer, (2) accept or agree to accept from another, or (3) solicit from another any pecuniary benefit to obtain, influence, or exchange a public servant or party official's decision, other exercise of discretion, or a violation of the official's legal duty. Moreover, under § 18.2-439, it is a Class 4 felony for any government officer or candidate for office or a sheriff or police officer or candidate for such office to accept any gift, gratuity, or promise of a gift, gratuity, or beneficial act with the understanding or agreement that the officer will give a particular vote, opinion, judgement, nomination, or appointment or take or fail to take any particular action or perform any duty required by the law.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be convicted of a Class 4 felony under the proposed section. However, if the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of the Class 4 felony under § 18.2-447 (bribery of public servants and party officials) or § 18.2-439 (acceptance of bribe by officer or candidate).

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2015 through FY2020, 21 individuals were convicted of a Class 4 felony under § 18.2-447 or § 18.2-439. It was the primary, or most serious, offense at sentencing for 19 offenders. Of these, 31.6% received a state-responsible (prison) term with a median sentence of 1.5 years. Another 47.4% were sentenced to a local-responsible (jail) term with a median sentence of three months. The remaining 21% of offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities.¹ By establishing a new Class 4 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data do not contain sufficient detail to estimate the number of additional felony convictions that may result from the proposal. Therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be determined.

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia's sentencing guidelines. The new Class 4 felony defined in the proposal would not be covered by the guidelines. Such a conviction could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. The Commission will monitor sentencing patterns after enactment to determine if it is feasible to add the proposed Class 4 felony offense to the guidelines.

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. According to the Department of Juvenile Justice, the impact of the proposal 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.

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¹ Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include 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.