Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1123
(Patron – Campbell, J.L.)

LD#: 22104309   **Date:** 01/12/2022

Topic: Illegal gambling and unlawful charitable gaming

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 552 of the Acts of Assembly of 2021, Special Session I, 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 amends §§ 18.2-328 through 18.2-331.1, 18.2-340.15, and 18.2-340.37 of the *Code of Virginia* relating to illegal gambling and unlawful charitable gaming violations. Currently, under § 18.2-328, operation of an illegal gambling enterprise is punishable as a Class 6 felony; the proposal would increase this penalty to a Class 5 felony. However, if such an enterprise has been in continuous operation for more than 30 days or has gross revenue of $2,000 or more in any single day, the operator may be fined up to $20,000 and imprisoned for not less than one year nor more than ten years under current law; the proposal increases the maximum fine for this offense to $100,000 and the statutory maximum term of imprisonment to 20 years. The proposal also increases the penalties for several Class 1 misdemeanors relating to illegal gambling to Class 6 felonies. The proposal establishes the Illegal Gambling and Unlawful Gaming Investigation Unit within the Department of State Police.

Currently, under the *Code*, it is a Class 1 misdemeanor to allow illegal gambling on property, aid or abet the operation of an illegal gambling enterprise, illegally possess a gambling device, make or cause a false statement to be made on a document related to gaming or any violation of Article 1 (§§ 18.2-325 to 18.2-340).

Analysis:

According to the Case Management System (CMS) for General District Courts for fiscal year (FY) 2016 to FY2021, ten offenders were convicted of a misdemeanor under §§ 18.2-328 through 18.2-331.1 for illegal gambling or unlawful charitable gaming. Five offenders did not receive an active term of

incarceration to serve after sentencing. For the other five offenders given a local-responsible (jail) sentence, the median sentence was five days.

The proposal increases the penalties for several Class 1 misdemeanors to Class 6 felonies. A comparable offense is the Class 6 felony defined by § 18.2-328 for operating an illegal gambling operation. According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2020 and FY2021, one offender was convicted of this felony offense. However, it was not the primary, or most serious, offense at sentencing. This individual received a local-responsible (jail) term with a sentence of 9.0 months.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases penalties and 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 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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, 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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