



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 530
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Reeves and McDougle[SB566])

LD#: 22105926

Date: 02/04/2022

Topic: Illegal gaming devices

- **State Adult Correctional Facilities:**
None (\$0)*
- **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

* 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 several sections in the *Code of Virginia* relating to illegal gaming devices; Virginia Fraud Against Taxpayers Act.

Under the proposed § 18.2-340.30, each qualified organization to conduct charitable gaming shall file, under penalty of perjury and at least annually, a report of all related receipts and disbursements, the amount of money on hand attributable to charitable gaming as of the end of the period covered by the report and any other information related to its charitable gaming operation that the Virginia Department of Agriculture and Consumer Services (VDACS) may require.

The proposal would also eliminate some exceptions specified under § 18.2-340.33(1) that allow part of the gross receipts derived by qualified organizations to be used for certain exempted purposes.

The proposal would allow for an action for pretrial levy or seizure or an attachment for a defendant who violates any provision of charitable gaming law or has conducted, financed, managed, etc., a gambling device that is located in an unregulated location pursuant to § 18.2-331.1 and require the Department of the State Police to assist the VDACS in the conduct of investigation of charitable gaming violations even without the official request of VDACS.

Currently, under § 18.2-340.37(A), any person in violation of the provisions specified under the article 1.1:1 of charitable gaming (§ 18.2-340.15 et seq.) is a Class 1 misdemeanor. Furthermore, under the same section, any person who willfully and knowingly files a false application or willfully and knowingly

makes a false statement on any application, report, or other document required to be filled with or made to the VDACS shall be guilty of a Class 1 misdemeanor.

Under § 18.2-340.37(C), any person who converts funds derived from any charitable gaming to his own or another's use, when the amount of funds is less than \$1,000, shall be guilty of petit larceny, punishable as a Class 1 misdemeanor. If the amount of funds is \$1,000 or more, an offender shall be guilty of felony grand larceny, punishable by imprisonment of 1 to 20 years.

Under § 18.2-434, penalty of perjury is a Class 5 felony punishable by imprisonment of 1 to 10 years.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2016 and FY2021, no offender was convicted of a felony grand larceny under § 18.2-340.37(C) for illegally converting funds (\$1,000 or more) from charitable gambling.

According to data from the General District Court (CMS) for the same period, there were no convictions for any Class 1 misdemeanor offenses specified under the existing charitable gaming-related statutes from the article 1.1:1 (§ 18.2-340.15 et seq.) during the six-year time period.

Sentencing Guidelines data for FY2020 and FY2021 indicate that 79 offenders were convicted of perjury, a Class 5 felony under § 18.2-434. The perjury offense was the primary, or most serious, offense at sentencing in 53 of the cases. Of these, 34.0% of the offenders did not receive an active term of incarceration to serve after sentencing. Another 58.5% of the offenders were given a local-responsible (jail) term for which the median sentence was five months. The remaining 7.5 % received a state-responsible (prison) term with a median sentence of 2.6 years.

Impact of Proposed Legislation:

State adult correctional facilities. In the six most recent fiscal years, no offender has been convicted of any crime related to filing a false application or statement or illegally converting \$1,000 or more funds from charitable gaming. Therefore, although it expands the applicability of existing felonies, the proposed legislation 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.

Local adult correctional facilities. Similarly, as no offender has been convicted of any misdemeanor offenses specified under the charitable gaming law in the six most recent fiscal years, the proposal is not expected to affect local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal will not affect adult community corrections programs.

Virginia's Sentencing Guidelines. Felony convictions under § 18.2-434 (Perjury) are covered by the Sentencing Guidelines as the primary, or most serious, offense. Felony convictions under § 18.2-340.37 (C) are not covered; however, they may augment the sentence recommendation if the most serious offense 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 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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