



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1077 (Patron – Cordoza)

LD #: 22103900

Date: 01/10/2022

Topic: False statement in the determination of paternity

#### 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 adds § 18.2-208.1 to the *Code of Virginia*, related to giving false information or statements for the purpose of determining paternity. Anyone found in violation would be guilty of a Class 6 felony with a mandatory term of confinement of one year. Also, proposed changes to § 32.1-257 allows an alleged father to request a genetic test prior to being entered as the father on a birth certificate. Under the proposal, any person relieved of paternity, who paid child support, may file an action for repayment of any support.

Currently, there are several statutes that establish penalties for false information, false statements or perjury. However, none specifically identify false statements, etc., for the purpose of determining paternity.

#### Analysis:

Existing data sources do not contain sufficient detail to identify the number of additional individuals who, if the proposal were enacted, would be convicted of a Class 6 felony offense under § 18.2-208.1. However, affected offenders may be sentenced similarly to those sentenced for a Class 6 felony under § 18.2-187.1, false statement to obtain utilities. This was the only Class 6 felony offense related to false statements with a sufficient number of convictions to illustrate sentencing patterns. There are no similar offenses that require a mandatory sentence of one year as proposed.

Based on Circuit Court Case Management System (CMS) data for FY2016 through FY2021, 36 offenders were convicted of a Class 6 felony under § 18.2-187.1 false statement to obtain utilities. This offense was the primary, or most serious, offense in 19 cases. The majority (63.2%) of these offenders did not receive an active term of incarceration to serve after sentencing. Four of these offenders (21.1%) received a local-responsible (jail) term with a median sentence of 7.0 months. The remaining three offenders (15.8%) were given a state-responsible (prison) term with a median sentence of 1.0 year.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By creating a new 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 individuals likely to be affected by 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.** As a new felony, convictions under § 18.2-208.1 would not be covered by the Sentencing Guidelines as the primary (most serious) offense. However, convictions under this statute could augment the Guidelines recommendation if the most serious offense at sentencing is covered by the Guidelines. No immediate adjustment to the Guidelines would be necessary under the proposal. However, if the proposal is enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns to determine the feasibility of adding the new felony to the Guidelines system.

**Juvenile direct care.** According to the Department of Juvenile Justice (DJJ), 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 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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**