



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1931 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Durant)

LD#: 23106925

Date: 02/16/2023

Topic: Tampering with tracking device by a sexually violent predator

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 2 of the Acts of Assembly of 2022, 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 § 37.2-912 of the *Code of Virginia*, relating to sexually violent predators placed on conditional release pursuant to Chapter 9 of Title 37.2. Under the proposal, it would be a Class 6 felony for any such person placed on conditional release to tamper with or in any way attempt to circumvent the operation of his GPS tracking device. Currently, such tampering is not subject to criminal penalties. Under § 37.2-918, any sexually violent predator who leaves the state without permission or fails to return to the Commonwealth is guilty of a Class 6 felony.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of sexually violent predators who, in the course of being monitored, tamper with or attempt to circumvent the operation of a tracking device. A review of fiscal year (FY) 2017-FY2022 Circuit Court Case Management System data identified two convictions for a sexually violent predator leaving the state without permission or failing to return, in violation of § 37.2-918. In both cases, this offense was a companion charge to a failure to register as a Tier III sex offender. One defendant was sentenced to a state-responsible (prison) term of 13 months on both offenses to run concurrently. The other defendant was sentenced to 14 months imprisonment for failing to register and received a one-year suspended sentence on the violation of § 37.2-918. It is not unknown if these individuals, in the course of the offenses, also tampered with their tracking devices.

Impact of Proposed Legislation:

State adult correctional facilities. By establishing a new Class 6 felony for which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Thus, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections programs. The proposal impacts individuals who are already being monitored or supervised and should have little or no impact on adult community corrections programs.

Virginia's Sentencing Guidelines. As a new felony, a conviction under the proposed § 37.2-912 would not initially be covered by the Guidelines as the primary (most serious) offense. Such a conviction could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. 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, 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, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, 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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