



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2372

Amendment in the Nature of a Substitute

(Patrons Prior to Substitute – Wyatt)

LD#: 23105402

Date: 02/02/2023

Topic: Possession, etc., of catalytic convertors removed from vehicle

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 § 18.2-146.1 to the *Code* to make it a Class 6 felony for any person to sell, offer for sale, or purchase a catalytic converter that has been detached from a motor vehicle, except when such sale, offer for sale, or purchase is made to or by a scrap metal purchaser that has adhered to the compliance provisions of § 59.1-136.3 (B1 or B2). The proposal also amends § 18.2-146 such that a judge or jury may make a permissive inference that a person who is in possession of a catalytic converter that has been removed from a motor vehicle did obtain the catalytic converter in violation this section unless the person is (i) an authorized agent or employee acting in the performance of his official duties for a motor vehicle dealer, motor vehicle garage or repair shop, or salvage yard that is licensed or registered by the Commonwealth; (ii) a scrap metal purchaser that has adhered to the compliance provisions of § 59.1-136.3 (B1 or B2); or (iii) a person who possesses vehicle registration documentation indicating that the catalytic converter in the person's possession is the result of a replacement of a catalytic converter from a vehicle registered in that person's name.

The 2022 General Assembly amended § 18.2-146 to establish penalties for the theft of catalytic convertors. Currently, it is a Class 6 felony to break, injure, tamper with, or remove a catalytic converter or related parts from a motor vehicle. A prosecution for a felony under the revised § 18.2-146 bars any prosecution or proceeding under § 18.2-137 (vandalism) for the same act.

Analysis:

Data are insufficient to identify the number of stolen catalytic converters removed from a motor vehicle that are sold, offered for sale or purchased. Thus, it is not known how many individuals would be convicted of a Class 6 felony due to the proposal. If the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony larceny offenses under §§ 18.2-97, 18.2-102, 18.2-108.1, or 18.2-109. According to Sentencing Guidelines data for FY2021 and FY2022, 13.5% of offenders convicted of Class 6 felony larcenies received a state-responsible (prison) term with a median sentence of 1.6 years. Another 45.3% received a local-responsible (jail) term for which the median sentence was 3.0 months. The remaining 41.2% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it potentially expands the applicability of an existing felony and creates a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of additional offenders who would be convicted of a felony as a result of the proposal; therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs. As the number of new convictions resulting from the proposal cannot be estimated, the impact on jail bed space needs cannot be determined.

Adult community corrections resources. 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's Sentencing Guidelines. As a new felony, convictions under the proposed § 18.2-146.1 would not be covered by the Sentencing Guidelines when such an offense is the primary, or most serious, offense in a case. Also, the Guidelines currently do not cover felony convictions under § 18.-146. Convictions under these provisions could augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. If the proposal were enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns under the new provision to determine the feasibility of adding the new felonies 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.