



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1291 Amendment in the Nature of a Substitute (Patron Prior to Substitute –Deeds)

LD#: 23105682

Date: 01/30/2023

Topic: False communications to emergency personnel

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:

Currently, under § 18.2-461, it is a Class 1 misdemeanor 1) to knowingly give a false report as to the commission of a crime to any law enforcement officer with the intent to mislead, or 2) with the intent to mislead a law enforcement agency, cause another to give a false report by publicly simulating a person or property crime (defined in Chapter 4 or Chapter 5 of Title 18.2), or 3) without just cause and with intent to interfere with the operations of any law enforcement official, to call or summon law enforcement by any means, including activation of an automatic emergency alarm. The offense is elevated to a Class 6 felony if the false report to law enforcement is based on the other person's race, religious conviction, gender, disability, gender identity, sexual orientation, color, or national origin.

The proposal adds § 18.2-461.1 to make it a Class 1 misdemeanor for any person to knowingly report, or cause another to report based on false information provided by such person, a false emergency communication that results in an emergency response. Under the proposal, the violation is elevated to a Class 6 felony if such false emergency communication results in an emergency response and any person suffers a serious bodily injury or to a Class 5 felony if any person is killed as a direct and proximate result of the false emergency communication to personnel. The bill authorizes any locality to provide by ordinance that a person convicted of such false emergency communication shall be liable for the reasonable expense of the emergency response.

Analysis:

Existing databases do not provide sufficient detail to identify the number of new convictions likely to result from enactment of the proposal; however, such offenders may be sentenced similarly to those who have been convicted under existing provisions.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2017 through FY2022 there were no felony convictions under § 18.2-461 for false reports to law enforcement.

According to the General District Court CMS for FY2017 through FY2022, 2,161 offenders were convicted of a Class 1 misdemeanor under § 18.2-461 for falsely summoning or giving a false report to law enforcement. The majority, 71%, did not receive an active term of incarceration. For the 29% who received a local-responsible (jail) sentence, the median sentence was 20 days.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates two new felony offenses for which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. While there have been no felony convictions under the current law during the most recent six-year period, the proposed legislation establishes new circumstances in which a felony could apply. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal; therefore, 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 resources. Because the proposal could result in 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 affected cases cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's Sentencing Guidelines. As newly-defined offenses, convictions under the proposed § 18.2-461.1 would not be covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. Such convictions may augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the guidelines. No immediate adjustment to the Guidelines would be necessary under the proposal. 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 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.

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