



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 896 Amendment in the Nature of a Substitute (Patron Prior to Substitute –McDougle)

LD#: 23106688

Date: 02/13/2023

Topic: Racketeering offenses

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 § 18.2-513 relating to the Virginia Racketeer Influenced and Corrupt Organization (RICO) Act. Under the proposal, petit larceny (§ 18.2-96) would be added to the list of offenses included in the definition of “racketeering activity.” The proposal also amends § 18.2-514 to expand the individuals who may be subject to racketeering charges from organizers, supervisors or managers of an enterprise to include any individuals who commit RICO violations at the direction of an organizer, supervisor or manager of an enterprise. Furthermore, § 18.2-514 is expanded to include not only receiving proceeds but also distributing proceeds derived from racketeering activity.

Penalties for racketeering specified in § 18.2-515 would remain the same under the proposal. A first offense is punishable by imprisonment of 5 to 40 years and a fine of up to \$1 million, while a second or subsequent offense is punishable as a Class 2 felony and a fine of not more than \$2 million.

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 FY2017 through FY2022, 115 offenders were convicted of racketeering violations during the six-year period. For 89 of these offenders, the racketeering violation was the primary, or most serious, offense at sentencing. Of these, 91% received a state-responsible (prison) term for which the median sentence was 3.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Available data do not provide sufficient detail to estimate the number of new felony convictions that may result from the proposal. Therefore, the magnitude of 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 determined, the magnitude of the impact on jail beds cannot be estimated.

Adult community corrections programs. 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 cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's Sentencing Guidelines. Convictions under the affected statutes are not covered by the Sentencing Guidelines as the primary, or most serious, offense in a case. A conviction under one of these provisions, however, could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. No adjustment to the Guidelines would be 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, 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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