



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 524 (Patron – Barker)

LD#: 22102463

Date: 12/29/2021

Topic: Certified payroll

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 (likely negligible) **
- **Juvenile Detention Facilities:**
Cannot be determined (likely negligible) **

**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 amends § 2.2-4321.3 of the *Code of Virginia*, to require employers that are subject to prevailing wage provisions for work done on public contracts to furnish the Commissioner of Labor and Industry a certified payroll. The proposal establishes civil penalties not to exceed \$1,000 for each violation of the prevailing wage provisions. In addition, a civil penalty of up to \$10 per day would be imposed for each day the required records are not received by the Commission of Labor and Industry. As proposed, any contractor or subcontractor who knowingly files false records or fails to file records would be guilty of a Class 6 felony.

Currently, under the provisions of the Virginia Public Procurement Act, §§ 2.2-4300 to 2.2-4377, any violation of the Act is a Class 1 misdemeanor. The misdemeanor penalty is in addition to any fine or civil penalty authorized by the statute. Provisions of § 2.2-4321.3, related to payment of prevailing wages for work performed on public works contracts, became effective on May 1, 2021. Under the Virginia Governmental Fraud Act, §§ 18.2-498.1 to 18.2-498.5, anyone who knowingly submits a false certified statement is guilty of a Class 6 felony.

Analysis:

According to fiscal year (FY) 2016 through FY2021 General District Court and Circuit Court Case Management System (CMS) data, there were no misdemeanor convictions under the provisions of the Virginia Public Procurement Act.

According to Sentencing Guidelines data for FY2016 through FY2021, one offender was convicted of submitting a false certified statement under the Virginia Governmental Fraud Act, § 18.2-498.4. The offender did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of offenders who would be convicted of the proposed Class 6 felony rather than a misdemeanor under existing law. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By creating new felony and misdemeanor offenses, the proposal may increase local-responsible (jail) bed space needs. Because 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, a conviction under the proposed § 2.2-4321.4 would not be covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. However, a conviction under this statute could augment the Guidelines recommendation 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 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 but is likely to be negligible.

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 but is likely to be negligible.

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.