

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: SB530ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Reeves

3. Committee: Passed both houses.

4. Title: Illegal gaming devices; Virginia Fraud Against Taxpayers Act; civil penalty

5. Summary: Provides that a person is liable to pay a civil penalty to the Commonwealth for having possession, custody, or control of an illegal gambling device when he knows such device is illegal. Additionally, such person is liable to pay a civil penalty for manufacturing for sale, selling, or distributing an illegal gaming device, knowing that such device is or is intended to be operated in the Commonwealth in violation of the Code. It is also sufficient grounds for an action for pretrial levy or seizure of an attachment if a principal defendant has conducted, finance, managed, supervised, directed, sold, or owned a gambling device that is located in an unregulated location, or if he has violated any provision of law related to charitable gaming, according to the bill. The bill clarifies that any person who sells a gambling device that is located in an unregulated location may be subject to a civil penalty, and clarifies that an attorney may cause an action in equity to be brought to immediately enjoin the operation of a gambling device. The bill also clarifies that the Department of Agriculture and Consumer Services (VDACS) may revoke the privilege of charitable gaming. The bill eliminates a current requirement that a proposal from VDACS to deny, suspend, or revoke an organization's permit when the organization is found not to be in compliance with the Code and the Charitable Gaming Board's regulations must be reviewed and approved by the Board. The bill also provides that no charitable games or funds from operations shall be seized except upon notice stating the proposed basis for such action. Additionally, the proposed legislation requires qualified organizations to file reports of receipts and disbursements under penalty of perjury. The bill eliminates some items on which gaming organizations may spend gross receipts. The bill also requires the Department of State Police (VSP) to assist in the conduct of investigations by VDACS; current law only requires VSP to do so upon request from VDACS.

6. Budget Amendment Necessary: Yes. Item 430.

7. Fiscal Impact Estimates: Final. See Item 8 below.

8. Fiscal Implications: Based on information received from the Department of State Police (VSP), an agent within the Bureau of Criminal Investigation (BCI) typically handles about 37 cases per year. According to data from the Department of Agriculture and Consumer Affairs (VDACS), the agency receives approximately 70 complaints per year that would require investigation assistance from VSP under this bill. VSP believes it will need one additional

special agent per agency division to provide regional expertise and to be able to respond to requests in a timely fashion for a total of seven special agents. The agency also believes it would require a first sergeant position to oversee the special agents and their investigations. Currently, a typical BCI sergeant supervises 11 people. One additional analyst position is needed to support the agents and their investigations and to serve as a liaison to VDACS. These positions will incur additional costs for office space, furniture, IT, vehicles, supplies, equipment, and training. VSP's total estimated costs are as follows:

Item	Quantity	Cost per Item	FY 2023 Total Cost	FY 2024 Total Cost
Special Agent	6	\$127,761	\$766,568	\$766,568
Special Agent (Northern Virginia Rate)	1	\$145,106	\$145,106	\$145,106
First Sergeant	1	\$103,719	\$103,719	\$103,719
Management Analyst	1	\$91,359	\$91,359	\$91,359
Office Space	---	---	\$32,130	\$32,130
Furniture	9	\$4,861	\$43,749	---
IT Hardware/Software	---	---	\$17,919	\$13,860
Vehicles, Supplies, and Equipment	---	---	\$935,165	\$385,165
Training	---	---	\$35,250	\$35,250
Total Costs for VSP			\$2,170,965	\$1,573,157

The proposed legislation is not anticipated to have a fiscal impact on the Office of the Attorney General. Information about any potential fiscal impact on the Department of Agriculture and Consumer Services is unavailable at this time. This impact statement will be updated when information becomes available.

Under current law, a violation of § 18.2-340.37(A), concerning charitable gaming law, is punishable as a Class 1 misdemeanor. It is also a Class 1 misdemeanor to file a false application or make a false statement on charitable gaming documents that are required to be filed with VDACS. It is also a Class 1 misdemeanor and punishable as petit larceny pursuant to § 18.2-340.37(C) to convert charitable gaming funds to one's own or another's use when the amount is less than \$1,000. If the amount is \$1,000 or more, a violation is punishable as felony grand larceny and is subject to a term of imprisonment of between one and 20 years. Perjury is a Class 5 felony punishable by imprisonment of between one and 10 years, pursuant to § 18.2-434.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail and a fine of not more than \$2,500, either or both. Anyone convicted of a Class 5 felony is subject to a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

According to data from the Circuit Court Case Management System (CMS) for fiscal years 2016 through 2021, no offenders were convicted of felony grand larceny for illegally

converting funds from charitable gaming. According to General District Court CMS data for the same time period, there were no convictions for any Class 1 misdemeanor offenses related to charitable gaming. Sentencing Guidelines data for FY 2020 and FY 2021 analyzed by the Virginia Criminal Sentencing Commission indicate that 79 offenders were convicted of perjury during this time period. Perjury was the primary, or most serious offense in 53 of these cases. Of those, 34 percent of offenders did not receive an active term of incarceration to serve after sentencing, 58.5 percent were given a local-responsible (jail) term with a median sentence of five months, and 7.5 percent received a state-responsible (prison) term with a median sentence of 2.6 years.

The proposed legislation is not anticipated to have a fiscal impact on the Department of Corrections or local and regional jails. Any potential fiscal impact on the Department of Juvenile Justice cannot be determined at this time.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Office of the Attorney General, Department of Agriculture and Consumer Services, Department of Corrections, Department of Juvenile Justice, and local and regional jails.

10. Technical Amendment Necessary: No.

11. Other Comments: None.