



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 700 **Amendment in the Nature of a Substitute** *(Patron Prior to Substitute – DeSteph)*

LD#: 22106076

Date: 02/04/2022

Topic: Covering a security camera in a correctional facility

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the 2021 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds § 18.2-473.2 to make it a Class 6 felony for any person to intentionally cover, remove, damage, render inoperable or otherwise obscure a security camera with the intent of inhibiting or preventing a security camera from recording or transmitting a photograph, motion picture, or other digital image of the commission of a felony. Otherwise, under the proposal, it is a Class 1 misdemeanor to cover, damage, etc., a security camera without the permission of the sheriff, jail superintendent, warden, or Director of the Department of Corrections or Department of Juvenile Justice.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of additional individuals who, if the proposal were enacted, would be convicted of a Class 6 felony or Class 1 misdemeanor offense under § 18.2-473.2. However, offenders convicted of the proposed felony may be sentenced similarly to those sentenced under existing provisions of § 53.1-203, destruction of property by an inmate.

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2020 and FY2021, 48 offenders were convicted of a Class 6 felony under § 53.1-203 for the destruction of property by an inmate. In 30 of the 48 cases identified, the felony violation of § 53.1-203 was the primary, or most serious offense. Twenty (66.7%) were sentenced to local-responsible (jail) terms with a median sentence of three months. Two (6.7%) were given state-responsible (prison) terms of 1.5 years

and 3.3 years, respectively. The remaining eight offenders (26.7%) did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By creating new Class 6 felony and Class 1 misdemeanor offenses, the proposal could increase the state-responsible (prison) bed space needs of the Commonwealth. A sentence for one of the proposed offenses may be ordered to run consecutively to or concurrently with the term the offender is serving in the correctional facility. Existing databases do not provide sufficient detail to estimate the number of additional felony convictions likely to result from enactment of the proposal. Therefore, the impact of the proposal cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

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

Virginia's Sentencing Guidelines. As a newly-defined crime, felony convictions under the proposed § 18.2-473.2 would not be covered by the Sentencing Guidelines as the primary (most serious) offense. A conviction for such an offense, 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 552 of the 2021 Acts of Assembly, 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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