



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 729 Amendment in the Nature of a Substitute (Patrons Prior to Substitute – Ruff and Spruill [SB41])

LD#: 22107918

Date: 03/14/2022

Topic: Larceny relating to damages to vehicles, etc.

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 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 § 18.2-146 to increase the penalty for vandalizing a vehicle, aircraft, or boat (§ 18.2-146) from a Class 1 misdemeanor to a Class 6 felony if the violation involves the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof. It further specifies that a prosecution or proceeding for a felony under § 18.2-146 is a bar to a prosecution or proceeding under § 18.2-137 (vandalism, damage property) for the same act. The proposal also requires scrap metal purchasers to maintain certain records.

Analysis:

According to General District Court Case Management System (CMS) for FY2020 and FY2021, 135 offenders were convicted of a Class 1 misdemeanor under § 18.2-146 for vandalizing a car, etc. In 45.9% of the cases, the offender received a jail term resulting in a median sentence of one month.

Data are insufficient to identify the number of crimes involving the breaking, injuring, tampering with, or removal of a catalytic converter or the parts thereof. However, if the proposal were enacted, affected individuals may be sentenced similarly to those who are currently convicted of Class 6 felony under § 18.2-137. FY2020-FY2021 Sentencing Guidelines data indicate that offenders convicted of a Class 6 felony under § 18.2-137 (B,ii) for vandalism of a property or monument causing damage of \$1,000 or

more most often received a jail term (44.7% of cases). Only 20.0% of offenders convicted of this felony vandalism charge received a prison term (median sentence of 1.3 years).

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 felonies. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By creating a new felony offense, the proposal may increase local-responsible (jail) bed space needs. As 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, convictions under the proposed § 18.2-146 would not be covered by the Sentencing Guidelines when such an offense is the primary, or most serious, offense in a case. However, convictions under the provision 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 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 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.

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