

Department of Planning and Budget 2022 Fiscal Impact Statement

1. Bill Number: SB566

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

2. Patron: McDougale

3. Committee: Gaming

4. Title: Charitable gaming; enforcement and penalties.

5. Summary: The proposed legislation allows for an action for pretrial levy or seizure of an attachment for a defendant who violates any provision of law related to charitable gaming. It clarifies that the Department of Agriculture and Consumer Services (VDACS) may revoke the privilege to conduct charitable gaming, and it prohibits the seizure of games or funds from gaming operations, except when certain circumstances have been met. It provides that qualified gaming organizations shall file reports of receipts and disbursements under penalty of perjury. The bill also removes a Code section allowing charitable gaming organizations to use funds to acquire, construct, maintain, or repair certain properties. It also requires VDACS to suspend, revoke, or refuse to renew the permit of suppliers or manufacturers of charitable gaming supplies that violate standards of conduct described in the Code. The bill also requires the Department of State Police (VSP) to assist in the conduct of investigations by VDACS; current law provides that VSP do so upon the request of VDACS.

6. Budget Amendment Necessary: Yes. Item 430.

7. Fiscal Impact Estimates: Preliminary. 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 |

VDACS does not anticipate a fiscal impact as a result of this proposed legislation.

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 Agriculture and Consumer Affairs, Department of State Police, Department of Corrections, Department of Juvenile Justice, and local and regional jails.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.