



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 1955 (Patron – Gardner)

LD#: 25101715

Date: 12/12/2024

Topic: Manufacturing, distributing, etc., crack cocaine

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: None (\$0)* • Local Adult Correctional Facilities: None (\$0) • Adult Community Corrections Programs: None (\$0) 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined** • Juvenile Detention Facilities: Cannot be determined** <p>** Provided by the Department of Juvenile Justice</p>
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* 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 § 18.2-248 to remove the distinction between cocaine (meaning powder cocaine) and cocaine base (also known as crack cocaine) for crimes related to manufacturing, selling, giving, distributing, or possessing with intent to distribute a Schedule I or II controlled substance.¹ In so doing, the proposal increases the quantity of crack cocaine necessary to trigger the higher penalties specified in subsections (C), (H), (H1), and (H2) to be equivalent to the amount of powder cocaine that triggers those same penalties. Currently, these provisions reflect a 2:1 ratio of powder to crack cocaine, meaning that it requires twice as much powder cocaine as crack cocaine to trigger the specified penalties. The current penalties under the specified provisions are summarized below.

§ 18.2-248 Manufacturing, selling, distributing, or possessing with intent to distribute a Schedule I or II drug			
Subsection	Current Quantity	Current Penalty	Mandatory Minimum Sentence
Subsection (C)	500 g cocaine 250 g crack	Imprisonment of 5 years to life / Fine up to \$1 million	5 years Not applicable if court finds certain conditions (e.g., offender does not have a prior conviction for a violent felony as defined in § 17.1-805)
Subsection (H)	5.0 kg cocaine 2.5 kg crack	Imprisonment of 20 years to life / Fine up to \$1 million	20 years Not applicable if court finds certain conditions (e.g., offender does not have a prior conviction for a violent felony as defined in § 17.1-805)
Subsection (H1) Drug kingpin	5.0 - 10 kg cocaine 2.5 - 5 kg crack	Imprisonment of 20 years to life / Fine up to \$1 million	20 years

¹ Under current law, felony offenses defined in § 18.2-248 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby individuals will serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

Subsection (H2) Drug kingpin	10 kg cocaine 5 kg crack	Imprisonment for life / Fine up to \$1 million	Life or 40 years (if defendant substantially cooperated with law enforcement authorities)
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Analysis:

According to Circuit Court Case Management System (CMS) data for FY2019 through FY2024, five defendants were sentenced for manufacturing, distributing, etc., crack cocaine in quantities specified in § 18.2-248(C), (H), (H1), or (H2) during the six -year period. All of these individuals were convicted under § 18.2-248(C) for offenses involving 250g or more of crack cocaine. Four of the five received a state-responsible (prison) term for which the median sentence was 5.0 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the amount of crack cocaine needed to trigger certain penalties, the proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. The proposal is not expected to increase the local-responsible (jail) bed space needs.

Adult community corrections resources. The proposal is not expected to increase the need for community corrections resources.

Virginia’s Sentencing Guidelines. The offenses affected by the proposal are not covered by the Sentencing Guidelines when such conviction is the primary, or most serious, offense at sentencing. The affected offenses are not defined as a violent offense in § 17.1-805(C) for the purposes of 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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