



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 1138 (Patrons—Sturtevant)

LD#: 25100378

Date: 12/23/2024

Topic: Delegates to constitutional convention, violation of oath

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)*
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0)**
- **Juvenile Detention Facilities:**
None (\$0)**

** Provided by the Department of Juvenile Justice

* 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 proposed legislation amends the Code of Virginia by adding Chapter 19.1 to Title 30 (§§ 30-173.1 – 30-173.10) relating to delegates to a constitutional convention. The proposal provides for the selection by the General Assembly of delegates to attend a convention for proposing amendments to the Constitution of the United States held pursuant to Article V of the Constitution of the United States. The bill grants the General Assembly the power to recall delegates, appoint new delegates, and convene an advisory committee to oversee the conduct of delegates. The bill provides that delegates must take an oath to adhere to the instructions of the General Assembly.

Analysis:

Currently, in the *Code of Virginia*, there are no substantially similar statutes to the proposal; however, there are statutes related to misconduct by government officials and employees and perjury. According to the Circuit Court and General District Court Case Management System (CMS) for fiscal years (FY) 2019 through FY2024, one individual was convicted of a misdemeanor for violating the State and Local Government Conflict of Interests Act (§§ 2.2-3100 through 2.2-3131). During the same six-year period, there were no convictions under the General Assembly Conflicts of Interest Act (§§ 30-100 through 30-129).

Individuals convicted of the proposed violation of an oath may be sentenced similarly to those currently convicted of a Class 5 felony for perjury under § 18.2-434. According to Circuit Court Case Management System (CMS) data for FY2019 through FY2024, 238 individuals were convicted under § 18.2-434 for falsely swearing on an oath. In 148 of the cases, this offense was the primary, or most serious, offense in the sentencing event. Of these 148 sentencing events, 40.5% of defendants received probation without an active term of incarceration and 46.6% received a local-responsible (jail) term. For the 10.3% who received a state-responsible (prison) term, the median prison sentence was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the potential applicability of felony perjury or other “penalties provided by law,” the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the proposal would only be applicable if there is a Constitutional Convention proposed by the state legislatures. Given the process that would be necessary for a Constitutional Convention to occur, any potential impact associated with the proposal would likely occur beyond the six-year forecast window required by § 30-19.1:4.

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

Adult community corrections programs. The proposal is not expected to have an impact on adult community corrections programs.

Virginia’s Sentencing Guidelines. Felony convictions under the current perjury statute (§ 18.2-434) are covered by the Sentencing Guidelines. No adjustment to the Guidelines would be necessary under the proposal. Perjury under § 18.2-434 is not defined as violent in § 17.1-805(C) for the purposes of the Guidelines.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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