



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 2592 (Patron—Batten)

LD #: 25100772

Date: 10/29/2024

Topic: Use of unmanned aircraft system near prohibited locations

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **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 2 of the Acts of Assembly of 2024, 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 § 18.2-121.3 to increase the penalty from a Class 1 misdemeanor to a Class 6 felony if 1) an individual knowingly and intentionally causes an unmanned aircraft (drone) to take off or land in violation of current Federal Aviation Administration Special Security Instructions or UAS Sensitive Airspace Restrictions, which includes the airspace over any state, local, or juvenile correctional center; 2) an individual drops any item within the boundaries of such facilities; or 3) an individual obtains any videographic or still image of an identifiable inmate or resident at any such facility. The proposal also creates a new Class 4 felony for any person who knowingly and intentionally causes an unmanned aircraft system to enter the property of any public services, utilities, or critical infrastructure. If an individual obtains and shares any videographic or still images from such infrastructures with the intent to commit espionage, they are guilty of a Class 3 felony.¹

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected by the proposal. According to the General District Court Case Management System (CMS) for fiscal year (FY) 2019 through FY2024, zero offenders were sentenced under the Class 1 misdemeanors that the current § 18.2-121.3 enumerates. Therefore, there is unlikely to be any significant impact if these current misdemeanors become felony offenses. The new proposed Class 4 and Class 3 felonies do not

¹ The proposed felonies would be eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court.

currently exist in the *Code of Virginia*, and there is insufficient data for comparable offenses. Between FY2019 and FY2024, there have been no convictions under § 18.2-46.5 for terrorism-related offenses.

Impact of Proposed Legislation:

State adult correctional facilities. By creating new felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Available data are insufficient, however, to identify the number of defendants who may be convicted of the proposed felonies or to estimate the number of new state-responsible sentences that may result from enactment of the proposal. Thus, the magnitude of the impact on prison bed space needs cannot be determined, but the impact is likely to be small.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be quantified and is likely to be small.

Adult community corrections programs. 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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be estimated but is likely to be small.

Virginia's Sentencing Guidelines. As new felonies, convictions for the proposed offenses initially would not be covered by the Sentencing Guidelines as the primary (or most serious) offense. Such convictions, however, could augment the Guidelines recommendation as additional offenses if the most serious offense at sentencing is covered by the Guidelines. The proposed felonies would not be defined as violent under § 17.1-805(C) for Guidelines purposes. No immediate adjustment to the Guidelines would be necessary under the proposal. If the proposal is enacted, the Sentencing Commission in the future would conduct analyses to determine the feasibility of adding the new felony 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, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2024, 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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