



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill 941 Amendment in the Nature of Substitute (Patron prior to substitute – DeSteph)

LD #: 25105280

Date: 01/20/2025

Topic: Robbery

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
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 § 18.2-58 to expand one of the four classes of robbery. Currently, robbery committed by using or displaying a firearm, as defined in § 18.2-308.2:2, in a threatening manner is a Class 3 felony. The proposal would expand the Class 3 felony to include any robbery committed by using or displaying an air or gas operated weapon similar in appearance to a firearm in a threatening manner, whether or not the weapon is capable of being fired.<sup>1</sup>

In 2021, the General Assembly adopted legislation to create four classes of robbery with different statutory penalties based on the circumstances of the offense (House Bill 1936, 2021 General Assembly). The new penalty structure became effective on July 1, 2021. The most serious robbery offense, resulting in serious bodily injury or death, is punishable as a Class 2 felony and has a maximum penalty of life. Robbery with the use or display of a firearm is a Class 3 felony, which carries a 20-year maximum penalty. Robbery with the use or display of a deadly weapon other than a firearm in a threatening manner is a Class 5 felony punishable by up to 10 years, as is robbery through physical force not resulting in serious bodily injury. Robbery by threat or intimidation not involving a deadly weapon is a Class 6 felony with a maximum penalty of five years. Prior to this change, all robberies had a statutory penalty range of five years to life.<sup>2</sup>

<sup>1</sup> Under current law, robbery offenses under § 18.2-58 are ineligible for the enhanced sentence credits specified in § 53.1-202.3; therefore, individuals convicted of robbery must serve a minimum of 85% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to these offenders.

<sup>2</sup> The General Assembly did not change the penalty for carjacking under § 18.2-58.1. The penalty for carjacking remains 15 years to life.

**Analysis:**

Data are insufficient to determine the number of defendants who may be affected by the proposal. Currently, defendants who commit robbery using air or gas operated weapons may be convicted of Class 5 or Class 6 felonies. Under the proposal, such defendants could be convicted of Class 3 felonies.

According to a recent Sentencing Commission study, there were 451 sentencing events between July 1, 2021, and March 31, 2024, in which a conviction for robbery was the primary, or most serious offense.<sup>3</sup> Only robberies committed on or after the effective date of the new penalties were included in the study. Robbery with a firearm accounted for 186 (41.2%) of the 451 robbery sentencing events. The table below summarizes sentencing patterns under the penalty structure in effect since July 1, 2021.

**Sentencing Events with Robbery (§ 18.2-58) as the Primary Offense**  
**July 1, 2021, through March 31, 2024**

(Includes Only Events with Robbery Offenses Committed on or after July 1, 2021)

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Robbery resulting in serious bodily injury or death (Class 2 felony)	29	10.3%	3.4%	6.0 mos.	86.2%	7.3 yrs.
Robbery – use or display of firearm (Class 3 felony)	186	11.8%	8.1%	6.0 mos.	80.1%	4.0 yrs.
Robbery – use or display of other deadly weapon or through use of force not resulting in serious bodily injury (Class 5 felony)	119	15.1%	17.6%	6.0 mos.	67.2%	2.5 yrs.
Robbery by threat/intimidation not involving a deadly weapon (Class 6 felony)	85	7.1%	20.0%	6.0 mos.	72.9%	2.5 yrs.

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.

Analysis includes completed, attempted and conspired offenses.

Sources: Virginia Criminal Sentencing Commission 2024 Robbery Study

**Impact of Proposed Legislation:**

**State adult correctional facilities.** By increasing the penalty for robbery offenses under certain circumstances, the proposal may result in longer sentences and increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to identify defendants who may be affected by the proposal; therefore, the magnitude of the impact on prison beds cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth; however, the magnitude of the impact cannot be quantified.

**Adult community corrections resources.** The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders affected by the proposal, as they will stay in prison or jail longer prior to being released to the community.

**Virginia’s Sentencing Guidelines.** When the General Assembly enacted legislation to modify the penalties for robbery, the Sentencing Commission suspended the Robbery Guidelines until a full analysis of sentencing under the new penalty structure could be completed. In 2024, the Commission conducted a

<sup>3</sup> Data include completed, attempted and conspired offenses.

study of robbery cases sentenced under the new penalty structure and developed new Guidelines based on the analysis. The proposed Guidelines were included in the Commission's 2024 Annual Report, which has been submitted to the 2025 General Assembly. Pursuant to § 17.1-806, if the General Assembly takes no action, the new Robbery Guidelines will take effect on July 1, 2025. All robberies under § 18.2-58 are defined as violent by § 17.1-805(C) for Guidelines purposes.

**Juvenile correctional centers.** 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.

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**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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