



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 1482 (Patron - Suetterlein)

LD #: 25104820

Date: 01/16/2025

Topic: Gratuities for previous acts (bribes)

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<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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* 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 §§ 18.2-3101, 19.2-37, and 30-101 and adds § 18.2-438.1 to the *Code of Virginia*. As proposed, the definition of gratuity would include any gratuity given for a prior act of any executive, legislative, or judicial officer, sheriff or police officer, or any candidates to such office. Currently, the relevant statutes prohibit such officers and candidates from receiving gifts and gratuities and such acts are punishable as Class 4 felonies.¹ The proposal clarifies that when the term gratuity is used it includes any gratuity given to an officer or candidate for a prior official act.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected by the proposed clarification. Individuals would be convicted under one of the current Class 4 felonies for bribery of a public official or candidate under §§ 18.2-438 through 18.2-447. According to FY2019-FY2024 Circuit Court CMS data, 32 individuals were convicted of bribery of a public official. In 23 of the cases, this offense was the primary offense in the sentencing event. Of these 23 events, 26.1% of defendants received probation without an active term of incarceration and 69.6% received a local-responsible (jail) term with a median sentence of 6.0 months. For the 4.3 % who received a state-responsible (prison) term, the median sentence was 5.0 years.

¹ Felony bribery offenses defined in §§ 18.2-438 through 18.2-447 are eligible for the enhanced sentence credits specified in § 53.1-202.3. Individuals convicted of such offenses will serve a minimum of 67% of the sentence ordered by the court.

Impact of Proposed Legislation:

State adult correctional facilities. By clarifying and expanding the definition of gratuity to include gratuities given for previous acts, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Available data are insufficient, however, to identify the number of additional persons who may be convicted of this felony 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.

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

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.

Virginia’s Sentencing Guidelines. Convictions for bribery are not 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. Bribery is not defined as violent under § 17.1-805(C) for Guidelines purposes. No immediate adjustment to the Guidelines would be necessary under the proposal. The Sentencing Commission in the future may conduct analyses to determine the feasibility of adding bribery 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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