



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 1726 Amendment in the Nature of a Substitute (Patron prior to substitute – Price)

LD #: 25106135

Date: 02/01/2025

Topic: Use of unmanned aircraft system

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 § 18.2-121.3 to add a Class 4 felony for anyone who knowingly or intentionally, and without authorization, causes an unmanned aircraft system to enter the property of a contracted defense facility and obtains or attempts to obtain any still images or videos that contain or reveal any controlled technical information within the facility.¹ The proposal defines a contracted defense facility and controlled technical information, and it specifies that the owner or operator of a contracted defense facility and its employees shall be immune from criminal prosecution and civil liability as a result of preventing, etc., an unmanned aircraft system from entering into the property of the facility if such action does not result in injury to any person.

Currently, the statute has a Class 1 misdemeanor for flying an unmanned aircraft in the following scenarios: onto private property to harass another or after being given notice to desist; taking off or landing in violation of legal airspace restrictions; and dropping any object in the boundaries of or taking still photos or video of any inmate in a state or local correctional center.

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

¹ The proposed felony 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.

fiscal year (FY) 2019 through FY2024, zero offenders were sentenced for the Class 1 misdemeanor currently defined in § 18.2-121.3.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new felony offense for which imprisonment is authorized, 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 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 the proposed felony 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 felony 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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