



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 1271 Amendment in the Nature of a Substitute (Patron prior to substitute – Perry)

LD#: 25107005

Date: 02/11/2025

Topic: Threats to discharge a firearm

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:

Currently, under § 18.2-83, it is unlawful for any person to communicate a threat to bomb, burn, destroy or damage any place of assembly, building or other structure, or means of transportation, or to communicate false information as to the existence of any danger related to such things. A violation of this section is a Class 5 felony if the offender is 15 years of age or older, or a Class 1 misdemeanor if the offender is under the age of 15.¹

The proposal expands § 18.2-83 to include threats to discharge a firearm within or at buildings or means of transportation, making a such conduct subject to a Class 5 felony as well. Moreover, the proposal raises the age threshold subject to a Class 1 misdemeanor under the section; if the person in violation of this section is under 18 years of age, such person would be guilty of a Class 1 misdemeanor.

Analysis:

According to the Sentencing Guidelines (SG) Data System for fiscal year (FY) 2023 through FY2024, 154 offenders were convicted of a Class 5 felony under § 18.2-83 for communicating a bomb threat, etc.

¹ Under current law, the felony offense under § 18.2-83 (related to threat to bomb, damage, etc.) is eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby individuals must serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of this felony.

Among the 128 offenders for whom this was the primary, or most serious, offense, 21.9% received a state-responsible (prison) sentence with a median sentence of 1.2 years. Another 41.4% received a local-responsible (jail) term for which the median sentence was six months. The remaining 36.7% of offenders did not receive an active term of incarceration to serve after sentencing.

The same data reveal that among those convicted of a Class 5 felony under § 18.2-83, no one was under the age of 18.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the applicability of an existing felony offense to include threats of discharging a firearm. Under the proposal, all defendants under the age of 18 must be charged with a misdemeanor; however, no one under the age of 18 has been convicted of the Class 5 felony in the last two fiscal years. Existing databases do not provide sufficient detail to estimate the additional number of felony convictions that may occur due to the proposal. Thus, the net effect of the proposal on state-responsible (prison) beds cannot be determined.

Local adult correctional facilities. Similarly, the proposal’s impact on local-responsible (jail) bed space needs cannot be determined.

Adult community corrections programs. Because the proposal may result in felony and misdemeanor 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 quantified.

Virginia’s Sentencing Guidelines. Felony convictions under § 18.2-83 are covered by the Sentencing Guidelines as the primary, or most serious, offense. This felony is currently not defined as violent under § 17.1-805(C) for Guidelines purposes. No adjustment to the Guidelines is necessary under the proposal.

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.