



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 769 (Patron—Herring)

LD#: 26103558D

Date: 12/04/2024

Topic: Damage public services or utilities

Fiscal Impact Summary:

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

- 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 725 of the Acts of Assembly of 2025 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 § 18.2-162 to expand the scope of the language used to prohibit the vandalism of critical infrastructure. Currently, it is a Class 4 felony to damage any facility that is used to furnish electric, gas, sewer, and other utility services to the public. This proposal goes further, making it a Class 4 felony to damage any facility, fixture, equipment, or information technology system used to furnish, provide, process, transmit, or maintain the same utility services as under current law in addition to other critical infrastructure as defined in § 44-146.28:2.¹ The proposal also applies similar expansions in the scope of the statutory language to the Class 4, Class 3, and Class 2 felonies under § 18.2-162 that deal with damage that threatens the release of radioactive material.

Analysis:

Existing databases do not provide sufficient detail to estimate the number of new convictions likely to result from enactment of the proposal. However, individuals convicted due to the proposal may be sentenced similarly to offenders convicted under current provisions. According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2020 to FY2025, five offenders were convicted of a Class 4 felony under § 18.2-162 for causing at least \$1,000 in damage to public utilities or services. In three of these cases, this was the primary, or most serious, offense in the sentencing event. Of these three sentencing events, one defendant received no incarceration, one defendant received a local-responsible (jail) sentence with a sentence of 6.0 months, and one defendant received a state-

¹ Under current law, the felony offenses defined in § 18.2-162 are eligible for the enhanced sentence credits specified in § 53.1-202.3. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

responsible (prison) sentence of 2.0 years. There was also one conviction of a separate Class 4 felony under § 18.2-162 related to causing damage which threatens the release of radioactive materials, but it was not the primary offense in the sentencing event. There were no convictions of Class 2 or Class 3 felonies under § 18.2-162 within the examined period.

General District Court Case Management System (CMS) data for FY2020 to FY2025 indicate that two offenders were convicted of a Class 3 misdemeanor under § 18.2-162 for causing less than \$1,000 in damages to a public utility or service. It was the most serious offense in one of the two cases, and this defendant received a sentence of no incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalties and expanding the applicability of the current statute for felonies defined in § 18.2-162, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Available data do not provide sufficient detail to estimate the impact on sentencing that may result from enactment of the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By increasing the penalties and expanding the application of the current statute for misdemeanor and felony offenses, the proposal may increase local-responsible (jail) bed space needs. Data are not sufficiently detailed to estimate the impact on sentencing and how many additional misdemeanor convictions may result if the proposal is enacted. Thus, the extent of the impact on jail beds cannot be quantified.

Adult community corrections programs. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's Sentencing Guidelines. Convictions under the existing § 18.2-162 are not covered by the Sentencing Guidelines when this is the primary (or most serious) offense at sentencing. Such a conviction could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. Felony offenses in § 18.2-162 are defined as violent offenses in § 17.1-805(C) for the purposes of the Guidelines. 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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 725 of the Acts of Assembly of 2025 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.