



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 948

(Patron—Maldonado)

LD#: 26101528

Date: 12/21/2025

Topic: Violations of minimum wage requirements; penalties

Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** 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 §§ 40.1-28.12, 40.1-29, and 40.1-29.1 to establish criminal penalties for violations of the Virginia Minimum Wage Act (§ 40.1-28.8 et seq.) and to modify civil penalties and relief available to employees when violations occur.

Under the proposed changes to § 40.1-29, an employer who willfully and with intent to defraud fails to pay wages in accordance with the Virginia Minimum Wage Act would be guilty of a Class 1 misdemeanor if the total value of the wages not paid to an employee or employees is less than \$10,000. The penalty would increase to a Class 6 felony if the total value of the wages not paid is \$10,000 or more or it is the second or subsequent conviction for a violation under §§ 40.1-29 (failure to pay wages) or 40.1-29.3 (failure to pay overtime wages) or the Virginia Minimum Wage Act.¹ The proposed penalties for minimum wage violations match existing penalties for failure to pay wages and failure to pay overtime wages. For purposes of this section, the determination as to the value of the wages is made by combining all wages the employer failed to pay which, under the proposal, would include minimum wage violations. Currently, violations of the Virginia Minimum Wage Act are punishable by a fine of \$10 to \$200 (§ 40.1-28.11).

The proposal also specifies that civil penalties and employee remedies currently applicable when an employer fails to pay wages would apply to violations of the Virginia Minimum Wage Act.

Analysis:

¹ For the first conviction, these felonies are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders serve a minimum of 67% of the sentence ordered by the court; however, an individual convicted of one of these felonies who has a prior conviction for the same offense or any other offense listed in § 53.1-202.3(A17) is not eligible for the enhanced sentence credits and must serve a minimum of 85% of the sentence ordered by the court.

Existing databases do not provide sufficient detail to estimate the number of new convictions likely to result from enactment of the proposal. If convicted, however, such individuals may be sentenced similarly to defendants currently convicted under §40.1-29 for violations associated with failure to pay wages or failure to pay overtime wages.

According to Circuit Court Case Management System (CMS) data for Fiscal Year (FY) 2020 through FY2025, one offender was convicted of a Class 6 felony under § 40.1-29 for failure to pay wages. For this individual, it was the most serious offense at sentencing. The offender received a state-responsible (prison) sentence of 3.5 years.

General District Court CMS data for the same six-year period did not reveal any misdemeanor convictions under § 40.1-29 for failing to pay wages or overtime wages.

Impact of Proposed Legislation:

State adult correctional facilities. By establishing new Class 6 felony penalties for certain minimum wage violations, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Since the number of additional felony convictions that may result from the proposal cannot be estimated with available data, the magnitude of the impact on prison beds cannot be determined.

Local adult correctional facilities. With the creation of new felony and misdemeanor penalties associated with minimum wage violations, the proposal may impact the local-responsible (jail) bed space needs; however, the magnitude of the impact 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 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. The Sentencing Guidelines do not cover violations of § 40.1-29 as the primary, or most serious, offense. Such a conviction, however, could augment the Guidelines recommendation (as an additional offense) if the most serious offense at sentencing is covered by the Guidelines. Felonies under § 40.1-29 are not defined as violent by § 17.1-805(C) for Guidelines purposes. No adjustment to the Guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.