



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill 549 (Patron—Sturtevant)

LD#: 26101036

Date: 11/03/2025

Topic: Delegates to constitutional convention, violation of oath

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)*
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
None (\$0)**
- **Juvenile Detention Facilities:**
None (\$0)**

** Provided by the Department of Juvenile Justice

* 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 proposed legislation amends the Code of Virginia by adding Chapter 19.1 to Title 30 (§§ 30-173.1 – 30-173.10) relating to delegates to a constitutional convention. The proposal provides for the selection of delegates by the General Assembly to attend a convention for proposing amendments to the Constitution of the United States held pursuant to Article V of the Constitution of the United States. The proposal grants the General Assembly the power to recall delegates, appoint new delegates, and convene an advisory committee to oversee the conduct of delegates. The proposal provides that delegates must take an oath to adhere to the instructions of the General Assembly. Any delegate who votes or otherwise acts beyond the authority granted would be guilty of a Class 5 felony. Also, any person who by bribery, intimidation, threats, etc., attempts to hinder a delegate from performing their authorized duties would be guilty of a Class 5 felony.

Analysis:

Currently, in the *Code of Virginia*, there are no substantially similar statutes to the proposal; however, there are statutes related to misconduct by government officials and employees, perjury, and bribery. According to the Circuit Court and General District Court Case Management Systems (CMS) for fiscal years (FY) 2020 through FY2025, two individuals were convicted of a misdemeanor for violating the State and Local Government Conflict of Interests Act (§§ 2.2-3100 through 2.2-3131). During the same six-year period, there were no convictions under the General Assembly Conflicts of Interest Act (§§ 30-100 through 30-129).

Individuals convicted of the proposed violation of an oath under § 30-173.5 or the Class 5 felony under § 30-173.11 may be sentenced similarly to those currently convicted of a Class 5 felony for perjury under § 18.2-434. According to Circuit Court CMS data for FY2020-FY2025, 217 individuals were convicted

under § 18.2-434 for falsely swearing on an oath during the six-year period. In 130 of the cases, this offense was the primary, or most serious, offense in the sentencing event. Of these 130 sentencing events, 45.4% of defendants received probation without an active term of incarceration and 43.8% received a local-responsible (jail) term with a median sentence of 6.0 months. For the 10.8 % who received a state-responsible (prison) term, the median sentence was approximately 1.5 years.

Individuals convicted of bribery or intimidation of a delegate under § 30-173.11 may be sentenced similarly to those currently convicted of the Class 4 felonies for bribery of public officials under §§ 18.2-438 through 18.2-447. According to FY2020-FY2025 Circuit Court CMS data, 27 individuals were convicted of bribery of a public official. In 18 of the cases, this offense was the primary offense in the sentencing event. Of these 18 events, 33.3% of defendants received probation without an active term of incarceration and 61.1% received a local jail term with a median sentence of 6.0 months. For the one individual who received a state prison term, the sentence was 5.0 years.

Impact of Proposed Legislation:

State adult correctional facilities. By creating two new Class 5 felony offenses and expanding the application of existing perjury statutes or other “penalties provided by law,” the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the proposal would only be applicable if there is a Constitutional Convention proposed by the state legislatures. Given the process that would be necessary for a Constitutional Convention to occur, any potential impact associated with the proposal would likely occur beyond the six-year forecast window required by § 30-19.1:4.

Local adult correctional facilities Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to have an impact on adult community corrections programs.

Virginia’s Sentencing Guidelines. As new felonies, convictions under the proposed § 30-173.11 would not be covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. Such convictions could augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. If convicted for perjury under § 18.2-434, the convictions are currently covered by Guidelines. No immediate adjustment to the Guidelines is necessary under the proposal. If the proposal is enacted, the Sentencing Commission in the future would conduct detailed analyses of sentencing patterns under the new provision to determine the feasibility of adding the new felony to the Guidelines system. The proposed felonies would not be defined as violent under § 17.1-805(C) for Guidelines purposes.

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 is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.