



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### Senate Bill 376 (Patrons—Surovell)

LD#: 26104875

Date: 1/12/2025

Topic: Perjury for attorneys representing victims of motor vehicle collisions

#### Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:**  
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.

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#### Summary of Proposed Legislation:

The proposal adds § 8.01-417.02 to the *Code of Virginia* to allow attorneys representing a person injured in a motor vehicle collision to request preservation of certain mobile telephone data. These attorneys must certify, in accordance with § 8.01-4.3 and under penalty of perjury, that they have been retained to represent the injured party. Any violation of § 8.01-4.3 is punishable as perjury under § 18.2-434 within the section regarding written declarations. Violation of § 18.2-434 is punishable as a Class 5 felony with a maximum penalty of ten years.<sup>1</sup>

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#### Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected by the proposal. However, affected offenders may be sentenced similarly to those currently convicted of the Class 5 felony under the existing § 18.2-434.

According to data from the Circuit Court Case Management System (CMS) for fiscal year (FY) 2020 through FY2025, there were 20 convictions under § 18.2-434 for perjury related to written declarations during the six-year period. This offense was the primary, or most serious, offense in 12 cases. Of these 12

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<sup>1</sup> Under current law, the felony offense defined in § 8.01-4.3 is eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby individuals serve a minimum of 67% of the sentence ordered by the court.

cases, 7 offenders received no incarceration, while 3 received a local-responsible (jail) sentence and 2 received a state-responsible (prison) sentence. The median jail sentence was 3 months, while the two offenders sentenced to prison were given sentences of 1.5 years and 2.0 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing Class 5 felony, 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 number of new felony convictions that may result from the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, by expanding the applicability of existing offenses, the proposal may increase local-responsible (jail) bed space needs. Because the number of new convictions resulting from the proposal cannot be determined, the magnitude of the impact on jail beds 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.** The Sentencing Guidelines do not currently cover perjury via written declaration under § 18.2-434 when such a felony is the primary (or most serious) offense. However, such convictions may augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. Perjury offenses outlined in § 18.2-434 are not defined as violent under § 17.1-805(C) for the purposes of the Guidelines. No adjustment to the Guidelines would be necessary under the proposal.

**Juvenile correctional centers.** 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.

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**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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**