



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 379 (Patron – Cherry)

LD#: 24100222

Date: 11/16/2023

Topic: Definition of violent felony offenses

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 1 of the Acts of Assembly of 2023, 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:

The proposal amends § 17.1-805(C) to expand the definition of a violent felony offense for the purposes of Virginia’s sentencing guidelines. The proposal amends subsection C to include offering money or receiving money, etc., to obtain custody or control of a minor (§ 18.2-356.1).

In 1994, the General Assembly adopted legislation to abolish parole and implement truth-in-sentencing for felony offenses committed on or after January 1, 1995. The legislation adopted in 1994 included provisions for a system of discretionary sentencing guidelines to be used by judges in Virginia’s circuit courts. While compliance with the guidelines is discretionary, the guidelines must be prepared and submitted to the court, and reviewed by the judge prior to sentencing. The framework of the guidelines system is laid out in § 17.1-800 through § 17.1-806. Subsection C of § 17.1-805 specifies the crimes that are defined as violent felony offenses under the sentencing guidelines. Offenders with prior convictions for violent felony offenses receive “enhancements” on the guidelines that increase the recommended sentences for those offenders.

Since enacted by the General Assembly in 1994, the list of violent felony offenses in § 17.1-805(C) has been expanded five times (1999, 2004, 2013, 2015 and 2021 General Assemblies) to include offenses not contained in the original legislation.

Analysis:

According to Sentencing Guidelines data for fiscal year (FY) 2022 and FY2023, 19.9% of the 39,056 offenders scored on the Sentencing Guidelines received a midpoint enhancement due to a prior violent felony offense listed in § 17.1-805(C).

Existing data are not detailed enough to determine the number of offenders who would be impacted by the proposed addition to the list of violent offenses and the subsequent enhancement to the Sentencing Guidelines. The proposed offense was added to the *Code of Virginia* on July 1, 2023. At this time, data are not available to identify any arrests or convictions under § 18.2-356.1.

Several statutes in the *Code* (§§ 18.2-248, 18.2-254.1, 18.2-308.2, and 18.2-460) contain references to § 17.1-805 in order to define a violent offender, to specify criminal penalties, or to limit eligibility for a program. Statutes related to Virginia’s victim assistance fund (§ 19.2-368.2) and the restoration of civil rights (§ 53.1-231.2) also include references to § 17.1-805.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. By amending § 17.1-805(C) to add offenses to the definition of a violent felony, offenders who have prior convictions for any of those offenses will be recommended by the Sentencing Guidelines for longer terms of state-responsible incarceration. Overall, Virginia’s circuit court judges comply with the Sentencing Guidelines recommendations in approximately 80% of the felony cases before them. Thus, the proposal is likely to result in longer prison terms for some offenders. The number of offenders who, in the future, would receive longer sentence recommendations because of the changes made by the proposal is unknown. Therefore, the magnitude of the impact on state-responsible bed space needs cannot be determined.

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

Adult community corrections resources. The potential impact on community corrections resources cannot be estimated.

Virginia’s sentencing 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, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 1 of the Acts of Assembly of 2023, 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.