



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 442 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Durant)

LD #: 24106217

Date: 01/25/2024

Topic: Computer trespass against schools and school boards

Fiscal Impact Summary:

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| <ul style="list-style-type: none"> • State Adult Correctional Facilities: None (\$0) * • Local Adult Correctional Facilities: Cannot be determined, likely to be small • Adult Community Corrections Programs: Cannot be determined, likely to be small | <ul style="list-style-type: none"> • Juvenile Correctional Centers: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <p>** Provided by the Department of Juvenile Justice</p> |
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* 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 §18.2-152.4 of the *Code of Virginia* by making it a Class 6 felony when a computer trespass offense is committed against any public, private, or religious elementary or secondary school or school board. Currently, it is a Class 1 misdemeanor unless the act results in a loss or damage of \$1,000 or more, was against a government entity or public utility.¹

Analysis:

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2018 through FY2023, there were 24 Class 1 misdemeanor convictions for violations of § 18.2-152.4. Six of the offenders received a local-responsible (jail) term of 10 days, while the others did not receive a term of incarceration to serve after sentencing.

The number of convictions for computer trespass acts against a school could not be determined. As proposed, such acts involving schools would be increased to Class 6 felonies and may be sentenced similarly to current offenses under §18.2-152.4. According to the Circuit Court Case Management System (CMS) for fiscal year FY2018 through FY2023, there were five Class 6 felony computer convictions under § 18.2-152.4. The computer crime was the primary, or most serious, offense in four cases. None received a term of incarceration to serve after sentencing.

¹ Under current law, felony offenses impacted by amendments to §18.2-152.4 are eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders will serve a minimum of 67% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for an existing offense from a Class 1 misdemeanor to a Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. In past six fiscal years, however, no offender convicted under the existing provision has received an active state-responsible (prison) term. Therefore, the proposal is not expected to impact prison bed space needs during the six-year window specified by § 30-19.1:4 for legislative impact statements.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined. The impact, if any, is likely to be small.

Adult community corrections resources. 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 quantified.

Virginia’s Sentencing Guidelines. Convictions under § 18.2-152.4 are not covered by the Sentencing Guidelines as the primary, or most serious, offense. Such convictions, however, may augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. For Guidelines purposes, these felonies are not defined as violent (§ 17.1-805(C)). No immediate adjustment to the Guidelines would be necessary under the proposal. If the proposal is enacted, the Sentencing Commission in the future could conduct detailed analyses of sentencing patterns to determine the feasibility of adding the new felonies to the Guidelines system.

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.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities.

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.