



**Fiscal Impact Statement for Proposed Legislation**  
**Virginia Criminal Sentencing Commission**

**Senate Bill No. 462**  
**(Patron – Bell)**

**LD#:** 22103766

**Date:** 01/11/2022

**Topic:** Video gaming terminals

**Fiscal Impact Summary:**

<ul style="list-style-type: none"> <li>• <b>State Adult Correctional Facilities:</b> \$50,000 *</li> <li>• <b>Local Adult Correctional Facilities:</b> Cannot be determined</li> <li>• <b>Adult Community Corrections Programs:</b> Cannot be determined</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Juvenile Direct Care:</b> Cannot be determined **</li> <li>• <b>Juvenile Detention Facilities:</b> Cannot be determined **</li> </ul> <p>** Provided by the Department of Juvenile Justice</p>
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\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, 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 adds several sections to the *Code of Virginia* relating to video gaming terminals. The proposed § 58.1-4048 defines “video gaming terminal” as follows:

“[A]n electronic, computerized, or mechanical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, ticket, token, or similar object to operate, activate, or play a game, the outcome of which is determined entirely by chance through the use of a random number generator, and that may deliver or entitle the person playing or operating the terminal to receive cash in excess of the cost of operating, activating, or playing the game.”

The proposal sets forth administrative procedures, licensing frameworks, and operation requirements for video gaming terminals, and establishes new offenses relating to video gaming terminals in Virginia. It would rename the Virginia Lottery Board to the Virginia Lottery and Gaming Oversight Board (VLGOB) and designate the VLGOB to regulate the gaming terminals. It would also rename the overarching agency of the Virginia Lottery to the Virginia Lottery and Gaming Department. Respective licenses issued by the VLGOB would be required to manufacture, distribute, provide to a host location, or run an establishment that hosts video gaming terminals in The Commonwealth.

The proposal defines several offenses that would be punishable as Class 1 misdemeanors, including: any person under the age of 21 who plays a video gaming terminal or anyone redeems evidence of winnings from a person under the age of 21; any person who makes a false statement in any video gaming terminal

application; and any host that gives a reward for an unauthorized video gaming terminal, gives a reward that is redeemable off the host location’s premises, or permits a person under the age of 21 to play a video gaming terminal.

The proposal also defines several offenses that would be punishable as Class 6 felonies, including: manufacturing, distributing, or hosting a video gaming terminal without a license; entering into an agreement for the placement of a video gaming terminal before the operator, host location, and procurement agent, if applicable, are all issued a license; anyone but an operator licensee possessing a key to a video gaming terminal, or any person tampering with a gaming terminal; and conspiring, confederating, or combining with another to commit any felony prohibited under the proposed Article 3 in Chapter 40 of Title 58.1.

Currently, under § 18.2-328, operating an illegal gambling enterprise is a Class 6 felony. An operator who engages in an illegal gambling operation that is in continuous operation for more than 30 days or who has a gross revenue of \$2,000 or more in a single day is subject to imprisonment for one to ten years.

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**Analysis:**

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2020 and FY2021, one offender was convicted of a felony under § 18.2-328 for operating an illegal gambling operation. However, it was not the primary, or most serious, offense at sentencing. This individual received a local-responsible (jail) term with a sentence of 9.0 months.

Under § 58.1-4018, fraudulently tampering with lottery machinery is a Class 3 felony subject to imprisonment for five to twenty years. According to the Circuit Court CMS for FY2016 through FY2021, there have been no convictions for this offense in the past six years.

Existing data do not contain sufficient detail to determine the number of felony convictions that may occur as the result of the proposal.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it creates new felony offenses, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison beds cannot be quantified.<sup>1</sup>

**Local adult correctional facilities.** Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Because the proposal could result in felony and misdemeanor 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.** Since the proposal defines new felony offenses, convictions under the proposed sections of the *Code* would not be covered by the sentencing guidelines as the primary, or most

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<sup>1</sup> Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only address 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.

serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the 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.

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**Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, 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.**

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