



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

**House Bill No. 1465**  
*(Patron – Bloxom)*

**LD#:** 24104131

**Date:** 01/18/2024

**Topic:** Interference with commercial fishing vessels

**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 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 adds § 18.2-146.2 to the *Code of Virginia* regarding interference with commercial fishing vessels. The proposal provides that any person who comes within 50 feet of a commercial fishing vessel without the consent of the owner or person in charge of such vessel, with the intent to coerce, intimidate, or harass the captain or crew of such vessel or interfere with its operations, is guilty of a Class 1 misdemeanor. The bill makes it a Class 6 felony to communicate to another person any threat to (i) kill or do bodily injury to anyone engaged in the activity of commercial fishing on the waters of the Commonwealth, or (ii) bomb, burn, destroy, or in any manner damage any commercial fishing vessel. If any such threat places the captain or crew in reasonable apprehension of death or bodily injury, this penalty is increased to a Class 5 felony. The proposal also makes it a Class 6 felony to intentionally or recklessly damage, injure, tamper with, deface, or destroy a commercial fishing vessel or any associated gear.<sup>1</sup> Under the proposal, an officer may, with or without a warrant, arrest a person for a violation of any provision of this section and seize any vessel used in the violation.

**Analysis:**

Existing data sources do not contain sufficient detail to estimate the number of additional convictions that may result if the proposal were enacted. However, individuals convicted of violating the proposed

<sup>1</sup> Felony offenses defined in the proposed § 18.2-146.2 would be 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.

§ 18.2-146.2 may be sentenced similarly to those convicted under existing provisions. For instance, offenders found guilty of the proposed Class 1 misdemeanor may be sentenced similarly to those convicted of trespassing with intent to damage property or interfere with property rights under the existing § 18.2-121. Individuals convicted of the proposed Class 6 felonies may be sentenced similarly to those convicted of the existing Class 6 felony for making a threat by letter, communication, or electronic message under § 18.2-60(A,1). Offenders convicted of the proposed Class 5 felony may be sentenced similarly to those convicted of an existing extortion-related Class 5 felony under §§ 18.2-59 or 18.2-60.

According to General District Court Case Management System (CMS) data for FY2018-FY2023, 2,819 offenders were convicted of trespassing with intent to damage property or interfere with property rights under § 18.2-121. Of these, 41.0% were sentenced to local-responsible (jail) terms with a median sentence of 1.0 month. The remaining offenders (59.0%) did not receive an active term of incarceration to serve after sentencing.

During the same six-year period, Circuit Court CMS data indicate that, among 36 defendants convicted of an extortion-related Class 5 felony as the primary (or most serious) offense, 13.8% received a state-responsible (prison) term. The median prison sentence was 1.5 years. Another 30.6% of these defendants received a jail term for which the median sentence was 3.0 months. The remaining 55.6% of defendants did not receive an active term of incarceration to serve after sentencing.

According to Sentencing Guidelines data for the same six-year period, 299 defendants were convicted of a Class 6 felony for making a threat by letter, communication, or electronic message under § 18.2-60(A,1). For 231 defendants, this offense was their primary offense. Of these, 35.5% were sentenced to jail terms with a median sentence of 7.0 months. Another 31.2% were sentenced to prison with a median sentence of approximately 1.5 years. The remaining 33.3% of defendants did not receive an active term of incarceration to serve after sentencing.

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### **Impact of Proposed Legislation:**

**State adult correctional facilities.** By proposing new felony offenses, the proposal may result in additional felony convictions and increase the need for state-responsible (prison) beds. 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.

**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 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.** As new felonies, convictions under the proposed § 18.2-146.2 would not be covered by the Sentencing Guidelines. Such convictions, however, could augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. Felony offenses proposed in § 18.2-146.2 would not be defined as violent under § 17.1-805(C) for the purposes of 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 an 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 commitment to the custody of the Department of Juvenile Justice.**

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