

## Department of Planning and Budget 2005 Fiscal Impact Statement

**1. Bill Number** HB 2438

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

**2. Patron** Kilgore

**3. Committee** Passed both houses

**4. Title** Manufacture of methamphetamine

**5. Summary/Purpose:**

Currently, the following sentencing structure applies to persons convicted of manufacturing or distributing a controlled Schedule I or II substance:

First offense—5 to 40 years;

Second offense—5 years to life imprisonment;

Third or subsequent offense—5 years to life imprisonment, with a mandatory minimum of 3 years.

The enrolled legislation would create the following sentencing structure for persons convicted of manufacturing or distributing methamphetamine or less than 200 grams of a mixture containing methamphetamine:

First offense—10 to 40 years;

Second offense—10 years to life imprisonment;

Third or subsequent offense—10 years to life imprisonment, with a mandatory minimum of 3 years.

In addition, the legislation would make it a felony, punishable by imprisonment of 10 to 40 years, for any person in a custodial relationship over a child to knowingly allow that child to be present in the same dwelling, structure, or vehicle during the manufacture or attempted manufacture of methamphetamine.

The bill also would require the Department of State Police, Department of Environmental Quality, Department of Health, and the Division of Forensic Science to establish a work group to develop a best-practices protocol for use by law-enforcement and emergency response agencies regarding the clean up of abandoned and deactivated methamphetamine labs. Furthermore, it would require the Division of Forensic Science, in consultation with the Division of Consolidated Laboratory Services, to create a best practices protocol regarding the retention and handling of the by-products of methamphetamine production after testing is conducted on behalf of law enforcement officials.

**6. Fiscal Impact:** Final. See Item 8.

**7. Budget amendment necessary:** None.

**8. Fiscal implications:**

According to the Virginia Criminal Sentencing Commission, it is expected that the legislation would result in an increase in the number of offenders in state prisons. However, because most Virginia methamphetamine cases in recent years have been tried in federal courts, rather than state courts, not enough information is available to project how many additional offenders would be committed to state prisons. Consequently, the Commission was unable to determine, pursuant to §30-19.1:4 of the Code of Virginia, the impact on state prisons resulting from this legislation and the necessary appropriation.

**9. Specific agency or political subdivisions affected:**

Department of Corrections  
Department of State Police  
Department of Environmental Quality  
Department of Health  
Division of Forensic Sciences  
Division of Consolidated Laboratory Services

**10. Technical amendment necessary:** None.

**11. Other comments:** None.

**Date:** 03/04/05 / rwh

**Document:** G:\LEGIS\Fis-05\HB2438ER.Doc Dick Hall-Sizemore