



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1232

(Patron – Landes)

LD#: 06-0027376

Date: 1/11/2006

Topic: Involuntary manslaughter of a fetus

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal adds § 18.2-36.3 to the Code of Virginia to define any person who, while engaged in the commission of a crime or conduct that shows a reckless disregard for human life, unintentionally causes an injury to a woman he knows is pregnant and the death of her unborn fetus as guilty of an involuntary manslaughter. An involuntary manslaughter is punishable as a Class 5 felony.

Analysis:

According to the fiscal year (FY) 2002 and 2003 Pre/Post-Sentence Investigation (PSI) database, a majority (54%) of the offenders convicted for involuntary manslaughter was sentenced to a state-responsible (prison) term of incarceration; the median prison sentence was three years. Nearly 30% (29%) were sentenced to a local-responsible (jail) term and the remaining 17% were given no active term of incarceration.

According to information from the National Conference of State Legislatures (NCSL) ¹, as of June 2005, at least 34 states have fetal homicide laws. From an examination of the NCSL information, only a subset of 21 states include manslaughter in their fetal homicide laws: 10 states have manslaughter statutes that apply when the victim is an unborn child, one state has case law that would allow the manslaughter statute to apply to an unborn child, and 10 other states have manslaughter statutes that apply only when the unborn child is viable.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal may increase the state-responsible (prison) bed space needs of the Commonwealth because it defines a new crime. The magnitude of impact, however, cannot be quantified because the new crime includes several specific elements that are not available in existing databases.

¹ See www.ncsl.org/programs/health/fethom.htm.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but the magnitude cannot be determined.

Adult community corrections programs. The proposal may increase the need for adult community corrections programs, but the number cannot be quantified.

Virginia's sentencing guidelines. Involuntary manslaughter convictions under § 18.2-36 are covered by the sentencing guidelines as the primary (most serious) offense at conviction, as well as involuntary manslaughter convictions under § 18.2-36.1. The new crime defined by the proposal would not be covered by Virginia's sentencing guidelines as the most serious in a case; however, convictions under the proposed statute may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal may increase juvenile correctional center (JCC) bed space needs, but the magnitude cannot be determined. Under the Length of Stay (LOS) guidelines, the minimum length of stay range would be six to 12 months.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal may increase the bed space needs of juvenile detention facilities, but the magnitude cannot be quantified.

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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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