



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1260

(Patron – Janis)

LD#: 06-1338348

Date: 1/4/2005

Topic: Subsequent convictions of certain sexual assaults

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

#### Summary of Proposed Legislation:

The proposal amends § 18.2-67.5:3 and adds § 18.2-67.5:4 to eliminate a restriction for imposing a mandatory minimum term of life imprisonment. Currently, when the prior conviction occurred as a juvenile, § 18.2-67.5:3 requires that length of time between present crime and prior juvenile adjudication be less than 20 years; the proposal does not change this in § 18.2-67.5:3, however, in the proposed § 18.2-67.5:4 (otherwise describing the same conditions), the time restriction does not exist.

The shared elements of the two statutes include:

- A current and prior conspiracy or completed act of rape (§ 18.2-61), forcible sodomy (§ 18.2-67.1), object sexual penetration (§ 18.2-67.2), or abduction with intent to defile (§ 18.2-48).
- The crimes are not part of a common act, transaction or scheme and the offender has been at liberty between convictions.
- The Commonwealth must notify the defendant in writing at least 30 days prior to trial of the intent to seek punishment under the respective statutes.

#### Analysis:

According to fiscal year (FY) 2002 and FY2003 Pre/Post-Sentence Investigation (PSI) data, 19 offenders met the current offense and prior record eligibility criteria for a mandatory term of life imprisonment under § 18.2-67.3 or the proposed § 18.2-67.4. The data are not sufficiently detailed, however, to identify which cases satisfied the requirement that the offender be “at liberty” between each conviction, which prior convictions would allow prosecution under the proposed § 18.2-67.4 but not the existing § 18.2-67.3, or which cases the prosecutor sought the mandatory life term prescribed by the existing § 18.2-67.3. Seven of these 19 offenders were sentenced to one or more terms of life imprisonment, and the median sentence for the other 12 offenders was 33 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of a mandatory minimum term of life imprisonment for certain repeat offenders, the state-responsible (prison) bed space needs of the Commonwealth may be increased, but not within the six-year window dictated by §30-19.1:4. The proposal will have no impact by FY2012.

**Local adult correctional facilities.** The proposal will have no impact on the local-responsible (jail) bed space needs.

**Adult community corrections programs.** The proposal will have no impact on the adult community corrections programs.

**Virginia's sentencing guidelines.** Convictions for all of the crimes affected by the proposal are covered by Virginia's sentencing guidelines as the primary (most serious) offense at conviction. No adjustment to the guidelines is needed.

**Juvenile correctional centers.** According the Department of Juvenile Justice (DJJ), the proposal will have no impact on juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal will have no impact on the bed space needs of juvenile detention facilities.

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

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