



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1296

(Patron – Saxman)

LD #: 06-0983496

Date: 1/3/2006

Topic: Possession of child pornography

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

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-374.1:1 to allow any person who knowingly possesses any sexually explicit visual material utilizing or having as a subject a person less than 18 years of age, to be charged with separate counts for each sexually explicit visual material possessed by the person. Currently, it is a Class 6 felony for a person to possess sexually explicit material of a minor; however, there is no stipulation that the individual may be charged for each separate piece of material possessed.

Analysis:

According to the FY2002 and FY2003 Pre-Sentence Investigation (PSI) database, three offenders were convicted under § 18.2-374.1:1. One was convicted of a first-time possession of obscene materials and was sentenced to no new term of incarceration. The other two were convicted of a subsequent possession of obscene materials; both were sentenced to prison terms (1.5 and 3 years).

Impact of Proposed Legislation:

State adult correctional facilities. By adding criteria to § 18.2-374.1:1 that allows an individual to be charged with separate counts of a Class 6 felony for each piece of sexually explicit material possessed, the proposal may have an impact on state-responsible (prison) bed space. However, existing databases do not specify the actual quantity of sexually explicit material possessed by offenders in these cases. Therefore, the impact of the proposal cannot be determined, but may be significant.

Local adult correctional facilities. The proposal may have an impact on local-responsible (jail) bed space; however, the impact of the proposal cannot be determined.

Adult community corrections programs. The proposal may have an impact on community corrections resources; however, this impact cannot be determined.

Virginia's sentencing guidelines. Felony convictions under § 18.2-374.1:1 are not covered by the sentencing guidelines, but may appear as additional offenses that augment the guidelines recommendation. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation for periods of imprisonment in state adult correctional facilities cannot be determined and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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