



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 883

(Patron – Griffith)

LD #: 06-0756308

Date: 1/9/2006

Topic: Carnal knowledge of student by school employee

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 proposal adds § 18.2-370.3 relating to the carnal knowledge of a student by a school employee. Any adult who in his position as a school employee, including a temporary or contractual employee, maintains a custodial or supervisory relationship over a student, at a public or private elementary or secondary school, is not legally married to such student, and engages in the performance of an act of carnal knowledge as defined in § 18.2-63 with such student is guilty of a Class 6 felony, regardless of the age of the student. A violation of this section constitutes a separate and distinct offense.

Currently, carnal knowledge of a child between thirteen and fifteen years of age is punishable under § 18.2-63 as a Class 4 felony. However, if the accused is a minor and the victim is a consenting child three years or more the accused's junior, the accused is guilty of a Class 6 felony. If the consenting victim is less than three years the accused's junior, the accused is guilty of a Class 4 misdemeanor. Other sections cover carnal knowledge of a juvenile by persons providing services under the purview of a court or the correctional system, and carnal knowledge of an inmate or probationer by an employee of state or local correctional facility or regional jail.

Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, 283 offenders were convicted of carnal knowledge of a thirteen or fourteen year old child under § 18.2-63. Of these, 54% were sentenced to state-responsible (prison) terms with a median sentence of 2.4 years. Another 29% were sentenced to local-responsible (jail) terms and the remaining 17% were given probation. In addition, 48 offenders were convicted of carnal knowledge committed as a minor against a victim three years or more their junior. Of these, 44% were sentenced to prison terms with a median sentence of two years. Another 31% were sentenced to jail terms and the remaining 25% received probation.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new felony offense, the proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth; however, the magnitude of the impact cannot be determined. The databases available to the Commission are insufficiently detailed to identify the number of felony convictions involving carnal knowledge of a student by a school employee.

Local adult correctional facilities. Because the proposal defines a new felony, there may be an increased need for local-responsible (jail) beds under the proposal; however, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal creates a new crime not currently defined by the *Code*, there may be an impact on community corrections resources. This impact cannot be quantified.

Virginia's sentencing guidelines. Felony carnal knowledge under § 18.2-63 is currently covered under the Other Sexual Assault guidelines. The new crime defined by the proposal would not be covered by Virginia's sentencing guidelines as the primary (or most serious) offense 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 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 cannot be determined 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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