



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 992

(Patron – Shannon)

LD#: 06-1676502

Date: 01/09/2006

Topic: Taking indecent liberties with children

#### 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 amends § 18.2-370 making it a Class 5 felony for any person 18 years of age or over to take indecent liberties with any minor who is three or more years his junior. Currently, § 18.2-370 states that it is a Class 5 felony for any person 18 years of age or over to take indecent liberties with a child under the age of 15. Indecent liberties is defined by § 18.2-370 as the 1) exposure of sexual parts to a child or proposal that a child expose his sexual parts, 2) proposal that a child fondle the offender's sexual parts or proposal that the offender fondle the child's sexual parts, 3) proposal that the child perform an act of sexual intercourse or any act under § 18.2-361 (bestiality or non-forcible sodomy), or 4) the enticement, etc., of a child to enter a vehicle, house, etc., for any purpose specified above.

#### Analysis:

According to the Fiscal Year (FY) 2002 and FY2003 Pre/Post-Sentence Investigation (PSI) database, there were 107 cases involving convictions for taking indecent liberties (§ 18.2-370) with a child under age 14 (victim's age was changed to under 15 by the 2005 General Assembly). Of the 107 cases, 15% were sentenced to no active incarceration; just over one-third (34%) were sentenced to a local-responsible (jail) term with a median sentence of 6.5 months; and the majority (51%) were sentenced to a state-responsible (prison) term with a median sentence of 2 years.

Based on FY2003 and FY2004 Local Inmate Data System (LIDS) data, there were 33 cases involving convictions for the Class 1 misdemeanor offense of consensual intercourse with a child age 15 or more, when the offender is not the parent (§ 18.2-371(ii)). All offenders were sentenced to a local-responsible (jail) term with a median sentence of 3 months.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** Because the proposal expands the applicability of an existing felony crime, there may be an impact on the bed space needs of the Commonwealth. However, the databases available to the Commission are insufficiently detailed to provide specific information

regarding offender and victim age and any acts that may constitute indecent liberties under § 18.2-370. The resulting impact on state-responsible (prison) beds cannot be determined.

**Local adult correctional facilities.** The proposal may have an impact on local-responsible (jail) bed space needs, but this impact cannot be determined.

**Adult community corrections programs.** The proposal may have an impact on community corrections resources. The potential impact on adult community corrections cannot be determined.

**Virginia's sentencing guidelines.** Offenses under § 18.2-370 subsection A are covered by the sentencing guidelines as the primary (or most serious) offense in a sentencing event. However, the proposed offense would not be covered by the sentencing guidelines, but may appear as an additional offense that may 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.

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**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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