



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 2591

(Patron – Janis)

LD#: 07-9921348

Date: 11/15/2006

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 for offenders convicted of rape, forcible sodomy, object sexual penetration, or abduction with intent to defile who have a prior conviction for one of those offenses. Currently, under § 18.2-67.5:3, if the offender's prior adjudication/conviction for one of the listed crimes occurred while he was a juvenile and the second sex offense was committed more than 20 years later, the mandatory minimum penalty of life does not apply. The proposal adds § 18.2-67.5:4, which prescribes the same penalties as the existing § 18.2-67.5:3, but eliminates that restriction so that the mandatory minimum penalty applies not matter how much time has passed since the prior adjudication/conviction. The proposal also requires that the prior conviction be alleged in the warrant, indictment, or information for the case.

#### Analysis:

According to calendar year (CY) 2004 and FY2005 Pre/Post-Sentence Investigation (PSI) data, 12 offenders met the current offense and prior record eligibility criteria specified in § 18.2-67.3 or the proposed § 18.2-67.4. Five of these 12 offenders were sentenced to one or more terms of life imprisonment; for the remaining 7 offenders who did not receive a life term, the median prison sentence was 34 years. 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.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** By expanding the applicability of a mandatory minimum term of life imprisonment for certain repeat sex offenders, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth; however, no impact is expected during the six-year forecast window used for calculating fiscal impact statements pursuant to § 30-19.1:4.

**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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