



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 1025

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – O'Brien)*

LD#: 07-7824784

Date: 1/25/2007

Topic: Abuse of incapacitated adults

#### 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:**  
Cannot be determined
- **Juvenile Detention Facilities:**  
Cannot be determined

#### Summary of Proposed Legislation:

The proposal amends § 18.2-369 to create a new felony offense related to the abuse and neglect of an incapacitated adult. Under the proposal, any responsible person who abuses or neglects an incapacitated adult and the abuse or neglect results in the death of the adult is guilty of a Class 3 felony.

Currently under § 18.2-369, abuse or neglect of an incapacitated adult that does not result in serious bodily injury or disease is punishable as a Class 1 misdemeanor. A second or subsequent abuse or neglect offense is punishable as a Class 6 felony. If the abuse or neglect of the incapacitated adult results in serious bodily injury or disease, the offender is guilty of a Class 4 felony.

#### Analysis:

Based on the Local Inmate Data System (LIDS) for calendar years (CY) 2004 and CY2005, two offenders held pre- or post-trial in jail were convicted of a felony under § 18.2-369 for abuse or neglect of an incapacitated adult that resulted in serious bodily injury or disease (Class 4 felony). One offender was sentenced to a local responsible (jail) term of one month; the other offender was sentenced to a state responsible (prison) sentence of 1.5 years.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** Because it creates a new felony offense, the proposal may have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. The magnitude of the impact cannot be quantified.

**Local adult correctional facilities.** Because a felony conviction can result in a sentence to be served in a local or regional jail, the proposal may have an impact on future local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined with existing data.

**Adult community corrections resources.** The proposal may increase the need for adult community corrections resources; however, the magnitude of the impact cannot be quantified.

**Virginia's sentencing guidelines.** Convictions under § 18.2-369 are not covered by the sentencing guidelines as the primary (most serious) offense at conviction but could 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 impact of the proposal on juvenile correctional centers cannot be quantified.

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the proposal's impact on juvenile detention facilities cannot be determined.

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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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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