



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1333

(Patron – Landes)

LD#: 08-0519592

Date: 1/10/2008

Topic: Sexual battery

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 § 18.2-67.4 expand the definition of sexual battery. Currently, an offender is guilty of sexual battery if he sexually abuses the complaining witness against his or her will, by force, threat, intimidation, or ruse. The proposal removes the requirement that the offense be committed by force, threat, intimidation, or ruse, making sexual abuse against the will of another an act of sexual battery, regardless of the mode in which it was accomplished.

Analysis:

According to the Local Inmate Data System (LIDS) for calendar year (CY) 2005 and CY2006, 405 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor for sexual battery under §18.2-67.4. For 85% of the offenders, this offense was the most serious charge at conviction. When this crime was the most serious charge, the majority of offenders (81%) received a local-responsible (jail) term, for which the median sentence was 6.9 months. The remaining offenders either received probation (13%) or were convicted of additional offenses that resulted in a state-responsible (prison) term (6%).

Impact of Proposed Legislation:

State adult correctional facilities. By removing certain elements from the definition of sexual battery, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional convictions that may result from the proposal cannot be estimated; therefore, the potential impact of the proposal cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase the need for local-responsible (jail) beds, but the magnitude of that impact cannot be determined.

Adult community corrections programs. Because the proposal could result in additional misdemeanor convictions and subsequent supervision requirements for an additional number of

offenders, the proposal may increase the need for local community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. The sentencing guidelines do not cover misdemeanor violations. A misdemeanor conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. 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 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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