

# Department of Planning and Budget

## 2008 Fiscal Impact Statement

**1. Bill Number** HB 574

**House of Origin**    ☐ Introduced    ☒ Substitute    ☐ Engrossed  
**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron** Watts

**3. Committee** Appropriations

**4. Title** Indecent liberties with children

**5. Summary/Purpose:**

Under current law, acts that are defined as taking indecent liberties with a child are set out in two statutes and are defined as a Class 4, Class 5, or Class 6 felony, depending on the circumstances.

The proposed legislation would consolidate the offenses into one statute and expand the offenses included. Moreover, it would increase the penalties for the offenses. The penalties would be dependent on the victim's age, whether the offender were related to the victim, and whether the offender had a custodial or supervisory relationship over the victim. Rather than use the standard statutory classification system for felonies, the legislation would provide that certain offenses be punishable with prison sentences of 1 to 10 years, rather than being treated as Class 5 or Class 6 felonies. Finally, the legislation would require that any person convicted of taking indecent liberties with a child and who had been previously convicted of such an offense or of any other specified sexual offense would be sentenced to the maximum sentence authorized for the indecent liberty offense, without any part of the sentence being suspended.

The legislation also would add the new section containing the proposed new sentencing structure to the Code sections currently cross-referencing the other sections dealing with taking indecent liberties with a child, such as the requirement for sex offender registration.

**6. Fiscal Impact:** Preliminary.

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2009	\$525,617	General
2010	\$0	
2011	\$0	
2012	\$0	
2013	\$0	
2014	\$0	

**7. Budget amendment necessary:** Yes. Item 391.

**8. Fiscal implications:**

For an offender convicted of a Class 6 felony, a judge has the option of imposing a sentence of up to 12 months in jail, or 1 to 5 five years in prison. For a Class 5 felony, the sentencing option of up to 12 months in jail is still available, and the prison sentence can be 1 to 10 years. By specifying a prison sentence of 1 to 10 years for many of the offenses covered, rather than a Class 5 or 6 felony, the proposed legislation would remove the option of imposing a jail sentence. These provisions, along with the expansion of acts covered and the requirement of a mandatory sentence for subsequent offenses, are expected to result in more offenders being housed in prison.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$525,617 (the highest annual cost over the next six years). The amount is based on the projection that the legislation will result in 19 additional inmates being incarcerated in prison.

It should be noted that the Sentencing Commission, in its analysis, cautions that this projection is a conservative estimate. Due to the lack of data, it was not able to identify all the offenders that would be affected by the legislation. In addition, more offenders could receive the mandatory penalty set out in the legislation than the Commission assumed in its analysis. As a result, the Commission states that its estimate is the least impact expected.

**9. Specific agency or political subdivisions affected:**

Department of Corrections

**10. Technical amendment necessary:** No.

**11. Other comments:**

The proposed legislation would not repeal the existing Code section dealing with the taking of indecent liberties with children. If the bill were enacted, there would be Code sections with different penalties for the same act.

**Date:** {2/5/2008} rwh

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