



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 597

Enrolled

(Patron Prior to Enrollment – McClellan)

LD#: Enrolled

Date: 2/26/2008

Topic: Marriage to child over 14

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be negligible
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be negligible
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined, likely to be negligible
- **Juvenile Detention Facilities:**
Cannot be determined, likely to be negligible

Summary of Proposed Legislation:

The proposal repeals § 18.2-66 of the *Code of Virginia*. The proposal removes an exemption for certain individuals who are charged with carnal knowledge of a child in instances where the child is at least 14 years old, the act is consensual, and the accused subsequently marries the child. Presently, § 18.2-66 states that a court shall dismiss the indictment found against the accused if, at the time the spouse reaches 16, the couple is still married and the accused is fulfilling marital obligations. If the accused deserts the spouse without just cause before the spouse reaches the age of 16, the indictment shall be tried. The proposal also removes references to the repealed statute from §§ 18.2-371 and 20-48.

Analysis:

According to Pre/Post-Sentence Investigation data for fiscal years (FY) 2006 and FY2007, there were 21 convictions under § 18.2-63(B) for carnal knowledge of a consenting 14-year old by a minor three or more years older. Nearly half of these offenders (48%) were given a state responsible (prison) term for which the median sentence was two years. One-third (33%) of these offenders were given a local-responsible (jail) term with median sentence of three months. The remaining offenders (19%) received probation without an active term of incarceration for this offense. The number of cases in which the offender subsequently married the other minor is unknown.

Impact of Proposed Legislation:

State adult correctional facilities. By removing an exemption to a felony offense, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Criminal justice databases are insufficient to determine the additional number of offenders who would be prosecuted, convicted, and sentenced as a result of this change; however, the impact, if any, is expected to be negligible.

Local adult correctional facilities. The proposal has the potential to increase local-responsible (jail) bed space needs. The magnitude of the impact cannot be determined but is expected to be negligible.

Adult community corrections programs. The impact on adult community corrections programs cannot be determined but is expected to be negligible.

Virginia's sentencing guidelines. Convictions under §18.2-63(B) are currently covered by the sentencing guidelines. 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 center (JCC) bed space cannot be determined but is likely to be negligible.

Juvenile detention facilities. The Department of Juvenile Justice reports that the impact of the proposal on the bed space needs of juvenile detention facilities cannot be determined but is likely to be negligible.

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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