

Department of Juvenile Justice 2008 Fiscal Impact Statement

1. Bill Number: HB 597

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

2. Patron: McClennan

3. Committee: Passed Both houses

4. Title: Crimes; effect of subsequent marriage to child carnal knowledge victim

- 5. Summary:** Under current law, it is a Class 4 felony to have sexual relations with a child 13 years old or older but less than 15 years old. If the child consented to sexual intercourse, the law provides for a lesser penalty, depending on the difference in ages between the child and the perpetrator.

Furthermore, if the carnal knowledge was with the consent of the child and the child was 14 years old or older, the subsequent marriage of the parties may be pleaded to any indictment against the accused. If the court finds that the parties are married and that the accused is providing for the spouse, the law directs that the case be continued until the spouse reaches the age of 16 and then the indictment is to be dismissed.

The proposed legislation repeals the code section that provides a defense to carnal knowledge of a 14-year-old female when there is a subsequent marriage of the victim and the perpetrator.

6. Fiscal Impact Estimates: Final. See Item 8

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2008			
2009			
2010			
2011			
2012			
2013			
2014			

6b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2008			
2009			
2010			
2011			
2012			
2013			

7. Budget Amendment Necessary: None

- 8. Fiscal Implications:** Because the proposed legislation would remove a defense for someone who had had consensual sexual relations with a child between the ages of 13 and 15, it could result in additional persons being sentenced to jail, prison or committed to the Department of Juvenile Justice.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2007), the estimated total state support for local jails averaged \$28.42 per inmate, per day in FY 2006.

Due to the lack of data on the number of people who may have used this defense in the past and thus potentially could be prosecuted in the future if the proposed legislation is enacted, the Virginia Criminal Sentencing Commission has determined, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. However, it is expected that the impact will be negligible.

The Department of Juvenile Justice has determined the fiscal impact cannot be determined but is expected to be negligible.

- 9. Specific Agency or Political Subdivisions Affected: Department of Juvenile Justice, locally operated juvenile detention homes, Department of Corrections, local and regional jails.**

10. Technical Amendment Necessary: None.

- 11. Other Comments:** The bill eliminates subsequent marriage to a female 14 years or older after having consensual sexual intercourse as a defense for not being convicted of a violation of § 18.2-371 COV. This could provide for more delinquency adjudications for a Class 1 misdemeanor. Criteria for commitment to DJJ now requires a minimum of four separate and distinct Class 1 misdemeanors, so it is not anticipated many youth will be committed for this offense. Most youths committed for sexual offenses are committed for felonies, with the exception of sexual battery which is a Class 1 misdemeanor.

Identical to SB 608, also enrolled.

Date: 3/3/2008 WSP

Document: HB597ER.doc

cc: Secretary of Public Safety