



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 902

(Patron – Bell)

LD #: 10102674

Date: 12/28/2009

Topic: Financial exploitation of elderly or disabled adults

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation adds § 18.2-213.2 regarding financial exploitation of elderly or disabled adults. Under the proposal, any person who is in a position of trust or confidence with an elderly or disabled adult and who by intimidation or deception knowingly takes control of, or otherwise uses, the elderly or disabled adult's property with intent to permanently deprive that person of such property is guilty of financial exploitation. The offense is punishable as a Class 1 misdemeanor if the value of the property obtained is less than \$200 in any six-month period or as a Class 6 felony if the value of the property obtained is \$200 or more in any six-month period.

Although the proposal creates a new statute, the General Assembly has addressed crimes against incapacitated adults twice in recent history by amending § 18.2-369. In 2004, the General Assembly increased the penalty for abuse and neglect of an incapacitated adult resulting in serious bodily injury or disease from a Class 6 felony to a Class 4 felony and, in 2007, it amended the section to make abuse and neglect resulting in the death of an incapacitated adult a Class 3 felony.

Analysis:

According to fiscal year (FY) 2007 and FY2008 Pre/Post-Sentence Investigation (PSI) data, 11,078 offenders were convicted of felony property or fraud offenses in which the victim may have been an incapacitated or elder adult. Most of these convictions (73%) involved property crimes property (Chapter 5 of Title 18.2), while 27% were crimes involving fraud (Chapter 6). Information regarding the victim's age and handicap status, however, was unknown in nearly all of the cases. The victim's handicap status was missing or unknown for 92% of the property crimes and 95% of fraud offenses. Similarly, the victim's age was missing or unknown for most cases. Victims were found to be over the age of 65 in only 0.4% of the property crimes, and 0.6% of the fraud offenses.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation defines new felony and misdemeanor offenses associated with the financial exploitation of an elderly or disabled adult. Thus, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. It is possible that some acts involving financial exploitation of an elderly or disabled adult are currently prosecuted under existing provisions of the *Code of Virginia*. For example, under § 18.2-178, obtaining money or property valued at \$200 or more by false pretenses, is a felony punishable by imprisonment of 1 to 20 years, regardless of the victim's age or disability status. The databases available to the Commission do not contain sufficient detail to identify all of the incidents involving elderly or disabled adults or to estimate the number of additional felony convictions that may result from the proposal. Therefore, the potential impact of the proposal cannot be determined.

Local adult correctional facilities. Similarly, the proposal could affect the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in additional convictions and subsequent supervision requirements for certain offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-152.4:1 would not be covered by the sentencing guidelines as the primary (or most serious) offense in a case; however, convictions for these crimes may augment the guidelines recommendation if a covered offense is the most serious at sentencing. 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 have an impact on juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to have an impact on 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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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