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SENATE BILL NO. 556

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-504.2, relating to crimes against incapacitated or elder adults; penalty.*

Patrons—Herring and Quayle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-504.2 as follows:

§ 18.2-504.2. Crimes against incapacitated or elder adults; penalty.

A. For purposes of this section:

"Incapacitated or elder adult" means any person 18 years of age or older who is impaired by reason of mental illness, mental retardation, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate, or carry out reasonable decisions concerning his well-being.

"Responsible person" means a person who has responsibility for the care, custody, or control of an incapacitated adult by operation of law or who has assumed such responsibility voluntarily, by contract, employment, law, or in fact.

B. Any person who commits an offense set forth in Chapter 4 (§ 18.2-30 et seq.), Chapter 5 (§ 18.2-77 et seq.), or Chapter 6 (§ 18.2-168 et seq.), knowing or having reason to know that the victim of the offense is an incapacitated or elder adult is guilty of a separate and distinct Class 1 misdemeanor if the underlying offense is a misdemeanor, and a separate and distinct Class 6 felony if the underlying offense is a felony.

However, if the offender is a responsible person, punishment for a misdemeanor under this section shall include a mandatory minimum term of confinement of 30 days, and punishment for a felony under this section shall include a mandatory minimum term of confinement of six months.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 Acts of Assembly of 2009 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.