



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### House Bill No. 1074

(Patron – Hugo)

LD #: 12100315

Date: 12/1/2011

Topic: Solicitation of a minor for prostitution

#### 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:**  
Cannot be determined
- **Juvenile Detention Facilities:**  
Cannot be determined

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends § 18.2-346 to increase the punishment for soliciting a prostitute if the person being solicited is a minor. Under the proposal, the penalty for soliciting a minor 16 years of age or older would increase from a Class 1 misdemeanor to a Class 6 felony, while the penalty for soliciting a minor under the age of 16 would increase to a Class 5 felony.

The proposal also adds language to create an affirmative defense to prosecution under this subsection in cases in which the person arrested or charged with being a prostitute was induced by another through the use of force, threat, intimidation, coercion or deception to engage in prostitution.

#### Analysis:

According to fiscal year (FY) 2010 and FY2011 data from the General District Court Automated Information System (CAIS), 1505 persons were convicted of prostitution-related offenses. In over half of these cases (56%), it was not specified whether the conviction was for being a prostitute or for soliciting a prostitute.

Ten percent of the cases (154) indicated a conviction under § 18.2-346(B) for soliciting. Most of these cases were sentenced to a combination of probation, fines and court costs. However, 41 offenders (27%) were sentenced to active, local-responsible (jail) terms ranging from two days to eight months. It should be noted, however, that no information is available to indicate the age of the person solicited. Consequently, it is not possible to estimate the number of offenders who might be convicted as felons under the proposed legislation.

The Department of Juvenile Justice (DJJ) Court Service Units serve as the point of entry into the juvenile justice system. An “intake” occurs when a juvenile is brought before a court service unit

officer for one or more alleged law violations. The Department of Juvenile Justice reports an average of four intake petitions per year during FY2009 through FY2011 alleging a violation of § 18.2-346 by a person under the age of 18. However, the age of the solicited person is not known.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it increases the penalty for an existing Class 1 misdemeanor to a Class 6 felony under certain circumstances, the proposal could increase the need for state-responsible (prison) beds. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

**Local adult correctional facilities.** The proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections resources.** Because the proposal may result in additional felony offenders on community supervision, the proposal may have an impact on local and state community corrections resources. However, the full cost of the impact on adult community corrections cannot be estimated.

**Virginia's sentencing guidelines.** As a new felony, convictions under the proposed statute would not be covered by the sentencing guidelines when this crime is the primary (most serious) offense. Conviction for such an offense, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** It is possible that a person under the age of 18 could solicit a minor for the purpose of prostitution and be subject to a Class 5 or Class 6 penalty under the provisions of this bill. In such an event, an adjudication for a felony in juvenile and domestic relations district court would make that person eligible for commitment to a juvenile correctional center pursuant to subsection (A)(14) of § 16.1-278.8 of the *Code*. Therefore, the legislative proposal may have an impact on juvenile correctional center bed space needs. While the actual impact on juvenile correctional center bed space needs cannot be determined, any impact is expected to be minimal.

**Juvenile detention facilities.** It is possible that a person under the age of 18 could solicit a minor for the purpose of prostitution and be subject to a Class 5 or Class 6 penalty under the provisions of this bill. In such an event, an adjudication a felony in juvenile and domestic relations district court would make that person eligible for commitment to a juvenile correctional center pursuant to subsection (A)(14) of § 16.1-278.8 of the *Code*. Thus, the legislative proposal may have an impact on the bed space needs of juvenile detention facilities. The actual impact on juvenile detention facilities cannot be determined, but is expected to be minimal.

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**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 890 of the 2011 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**