



Fiscal Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1285 (Patron – Anderson)

LD#: 12103711

Date: 01/12/2012

Topic: Pain-Capable Unborn Child Protection Act

Fiscal Impact Summary:

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

- **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 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 adds § 18.2-76.3 through 18.2-76.13 relating to abortion under the Pain-Capable Unborn Child Protection Act. The proposal includes legislative findings related to abortions and prohibits abortions after the unborn child reaches 20 or more weeks postfertilization age. Abortions at 20 or more weeks postfertilization not otherwise prohibited by the proposal are to be performed in such a way that provides for the best opportunity for the unborn child to survive. Any physician who performs an abortion must report details to the Board of Health. An intentional or reckless falsification of the report to the Board is punishable as a Class 1 misdemeanor. Any abortion that violates the provisions of the proposal is punishable as a Class 6 felony. The proposal also establishes a litigation fund.

Currently, under §§ 18.2-71 and 18.2-71.1, producing an abortion or performing partial birth infanticide are Class 4 felonies. It is a Class 3 misdemeanor, as defined by § 18.2-76.1, to encourage, promote or advertise any prohibited abortion procedures. Consent issues related to abortions are punishable as Class 3 misdemeanors under § 16.1-241.

Analysis:

There were no convictions for any abortion law violations in either the General District or Circuit Court Automated Information System (CAIS) for fiscal years 2010 and 2011.

Impact of Proposed Legislation:

State adult correctional facilities. Because it establishes a new felony abortion law, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing

databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Although the magnitude of the impact on prison beds cannot be quantified, the impact, if any, is likely to be small.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined. The impact, if any, is likely to be small.

Adult community corrections programs. Because the proposal could result in additional felony convictions and subsequent supervision requirements for an additional number of 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. The sentencing guidelines do not currently cover abortion law violations as the primary (most serious) offense in a sentencing event. However, conviction for an abortion-related crime (as an additional offense) may 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. According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase 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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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