



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 215 (Patron – Miller)

LD#: 12102033

Date: 01/03/2012

Topic: Mandatory reporting of suspected child abuse

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, likely small
- **Juvenile Detention Facilities:**
Cannot be determined, likely small

* 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 § 63.2-1509 to make it a Class 1 misdemeanor for any person required by this statute to report child abuse or neglect to fail to report the abuse or neglect within 24 hours of first suspecting it. It would be a Class 6 felony for a second or subsequent failure to report suspected child abuse or neglect. The list of professionals who must report abuse or neglect remains the same under the proposal.

Currently, the *Code* allows certain professionals and officials 72 hours, from the first suspicion of child abuse or neglect, to report the offense. The penalty for not making a report to the Department of Social Services' hotline is a fine up to \$500 for a first offense. A second or subsequent violation is punishable with a fine of at least \$100 up to \$1,000.

Analysis:

According to the Juvenile and Domestic Court Automated Information System (CAIS) database for fiscal years 2007 to 2011, there were 17 convictions for a violation of § 63.2-1509 by ten offenders. Two offenders had multiple counts on one sentencing date and one offender had convictions in two different years. Under the proposal, these three offenders could face felony convictions. No data were available on the fines assessed each offender.

According to the General District Court Automated Information System (CAIS) database for fiscal years 2007 to 2011, another two offenders were convicted of violating § 63.2-1509. One received a \$100 fine and the other received a \$500 fine. There is no indication that either had a previous violation of § 63.2-1509.

Impact of Proposed Legislation:

State adult correctional facilities. By defining new offenses, a Class 6 felony and a Class 1 misdemeanor, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Data from a recent five-year period indicate that three offenders would have been subject to the proposed felony penalty for a second or subsequent failure to report child abuse or neglect. Because this offense is currently punishable by a fine only, and there is no comparable felony defined in current *Code*, it is not possible to estimate sentencing outcomes for offenders affected by the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may have an impact on local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Data indicate that three offenders during a recent five-year period would have been subject to the proposed felony penalty; therefore, the impact on state community corrections resources is expected to be minimal.

Virginia's sentencing guidelines. As a new crime in the *Code of Virginia*, the proposed felony would not be covered by the sentencing guidelines as the primary (most serious) offense. A conviction for such an offense, however, 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. It is possible that a person under the age of 18 could work in a profession that is subject to the provisions of the proposed legislation. In such an event, an adjudication for a Class 6 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. However, the actual impact on juvenile correctional center bed space needs cannot be determined, but is expected to be small.

Juvenile detention facilities. It is possible that a person under the age of 18 could work in a profession that is subject to the provisions of the proposed legislation. In such an event, the person could be subject to pre-trial detention in a juvenile detention facility pursuant to § 16.1-248.1. In addition, an adjudication for a Class 6 felony in juvenile and domestic relations district court would make that person eligible for post-dispositional detention under § 16.1-284.1. While the legislative proposal may have an impact on juvenile detention bed space needs, the actual impact on juvenile detention facilities cannot be determined, but is expected to be small.

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.