



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

**House Bill No. 596**  
**Amendment in the Nature of a Substitute**  
*(Patrons Prior to Substitute – Crockett-Stark & Kilgore)*

**LD#:** 12104598

**Date:** 01/26/2012

**Topic:** Methamphetamines, precursors, and the presence of minors

#### 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 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 proposed legislation amends § 18.2-248.02. Under the current provision, it is unlawful for an adult to allow a child over whom he has a custodial relationship to be present during the manufacture of methamphetamine. The proposal:

- Removes the requirement of a custodial relationship between the adult and the person known to be under the age of 18 and allowed to be present while methamphetamine is manufactured; and
- Expands the provision beyond the manufacture of methamphetamine to include circumstances in which at least two components or precursor substances are found with the intent to manufacture methamphetamine.

#### Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal year (FY) 2010 and FY2011, 18 offenders were convicted under § 18.2-248.02 for allowing a child to be present during the manufacture or attempted manufacture of methamphetamine. In addition to this offense, all offenders were convicted of at least one additional charge, most often related to the distribution of a Schedule I/II drug. Most of the offenders (15 of the 18) received a state-responsible (prison) term ranging from 1.0 to 15 years, with a median sentence of 4 years. The remaining three offenders did not receive an active term of incarceration to serve.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** By expanding the applicability of an existing felony to include other specified persons as well as additional circumstances under which someone could be prosecuted for this offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. 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 also increase 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 additional felony convictions and subsequent supervision requirements, the proposal may affect adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections programs cannot be quantified.

**Virginia's sentencing guidelines.** Convictions under subsection § 18.2-248.02 are not covered by the sentencing guidelines as the primary (most serious) offense. Such a conviction, 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.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to affect juvenile detention facility bed space needs.

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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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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