



Fiscal Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 981

(Patron – Scott)

LD#: 12100663

Date: 12/1/2011

Topic: Failure to report a dead or missing child

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 adds § 18.2-323.03, related to failing to report a dead or missing child. Under the proposal, any parent, guardian, etc., of a child who, with intent to conceal the death, fails to report the death of the child within one hour of discovering the death would be guilty of a Class 6 felony, unless the child was in the care of a health care provider.

The proposal also states that any parent, guardian, etc., who, with intent to conceal the fact that the child is missing, fails to report the child as missing within 24 hours of discovering it would be guilty of a Class 6 felony.

Currently, under § 18.2-323.02, it is a Class 6 felony for any person to transport, secrete, conceal or alter a dead body with malicious intent and to prevent detection of an unlawful act or to prevent detection of the death or the manner or cause of death. Additionally, under § 18.2-323.01, it is a Class 1 misdemeanor to illegally dispose of a dead body on public or private property.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years (FY) 2010 and 2011, there were six offenders convicted of concealing a dead body under § 18.2-323.02 as the primary, or most serious, offense in the sentencing event. Four of these offenders received a state-responsible (prison) term; three of the four offenders were given the maximum penalty of five years for the offense and one offender was given a one-year term. The remaining two offenders were not given an active term of incarceration to serve. Pre-Sentence Investigation (PSI) data for the same time period reveal that none of these cases involved concealing the dead body of a child.

According to fiscal year (FY) 2010 and FY2011 data from the General District Court Automated Information System (CAIS), no offenders were convicted of a Class 1 misdemeanor for illegally disposing of a dead body on public or private property under § 18.2-323.01 during this time period. CAIS data indicate that one offender was convicted of a misdemeanor under § 18.2-323.01 in circuit court between FY2010 and FY2011. This offender was also convicted of 1st degree murder and several other felony offenses.

Criminal justice databases are not sufficient to provide information on parents, guardians, etc., who fail to report a missing child within 24 hours of discovery.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal defines two new Class 6 felonies. It is likely that acts involving the failure to report the death of a child could be prosecuted currently under the existing Class 6 felony provision defined in § 18.2-323.02; moreover, there have only been six felony convictions during a recent two-year period under the existing provision (§ 18.2-323.02) and none of the cases involved the death of a child. Therefore, this aspect of the proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

However, data are not available to determine the potential impact of the other Class 6 felony defined in the proposal for failing to report a child missing within 24 hours. The impact of this aspect of the proposal on prison beds cannot be determined.

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

Adult community corrections programs. The impact of the proposal on the need for adult community corrections resources cannot be determined.

Virginia's sentencing guidelines. As a new statute, convictions under the proposed § 18.2-323.03 would not be covered by the sentencing guidelines as the primary (most serious) offense. Convictions under the proposed statute, however, could augment the 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 be a parent and 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.

Juvenile detention facilities. It is possible that a person under the age of 18 could be a parent and 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.

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.

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