



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 667 (Patron – Garrett)

LD#: 12103721

Date: 01/10/2012

Topic: Child endangerment

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends §§ 8.01-226.5:2, 40.1-103, and 63.2-1530 and adds § 18.2-371.1:1, related to cruelty and injuries to children, to the *Code*. The proposal moves the exact language of § 40.1-103 to the proposed § 18.2-371.1:1 and modifies any reference to § 40.1-103 to reflect the new section. The current § 40.1-103 is amended to identify unlawful acts of cruelty and injuries to children as those defined by the proposed § 18.2-371.1:1. As in the existing *Code*, the proposal retains an affirmative defense to prosecution when a parent safely leaves a child at a hospital or rescue squad.

Currently, the *Code* includes this single law related to cruelty and injuries to children and abandoned infants under the child labor section of Title 40.1, "Labor and Employment." The proposal relocates the existing law to Title 18.2, "Crimes and Offenses Generally," under crimes against children and retains a reference to this section under Title 40.1.

Analysis:

The Circuit Court Automated Information System (CAIS) database for fiscal years 2010 and 2011 indicates that 60 offenders were convicted of a felony for child cruelty under § 40.1-103. The child cruelty felony was the most serious offense in 35 of the cases. Of the 35 cases, most received some period of incarceration. Slightly more than one-third (34.3%) of the offenders were sentenced to a local-responsible (jail) term, with a median sentence of 2.5 months; an additional 28.6% received a state-responsible (prison) term, with a median sentence of roughly two years. The remaining 37.1% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal relocates an existing statute to a different part of the *Code*. No new law or change in penalty structure is proposed. The proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is not expected to increase the local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections programs. The proposal is not expected to increase the need for adult community corrections resources.

Virginia's sentencing guidelines. Sentencing guidelines do not cover current violations of § 40.1-103 and would not cover the same offense identified under the proposed § 18.2-371.1:1. However, convictions for this crime may augment the guidelines recommendation if a covered offense is the most serious at sentencing. 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 is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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