



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1603

(Patron – Minchew)

LD#: 13102747

Date: 12/13/2012

Topic: Crimes against incapacitated adults

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposed legislation adds § 18.2-504.2 to define crimes against incapacitated adults, including individuals incapacitated due to advanced age. Under the proposal, any person who knowingly commits an offense set forth in Chapter 4 (Crimes Against the Person, § 18.2-30 et seq.), Chapter 5 (Crimes Against Property, § 18.2-77 et seq.), or Chapter 6 (Crimes Involving Fraud, § 18.2-168 et seq.) of Title 18.2 of the *Code of Virginia*, against an incapacitated adult is guilty of a separate and distinct Class 1 misdemeanor. However, if the offender is responsible for the care, custody, or control of the victim, punishment for a conviction under this section must include a mandatory minimum term of confinement of 30 days if the underlying offense is a misdemeanor and a mandatory minimum of six months if the underlying offense is a felony.

The proposal also defines the terms “incapacitated adult” and “responsible person”; these definitions closely resemble those set forth in § 18.2-369 regarding the abuse and neglect of incapacitated adults.

Analysis:

The number of offenses committed against incapacitated adults, as defined in the proposal, is not known. However, the Incident-Based Reporting (IBR) Repository System maintained by the Virginia State Police is designed to capture the age of victim for incidents that are reported to police. According to 2010 and 2011 IBR data, there were 994 arrests during this two-year period for person crimes committed against victims who were 70 years of age or older (see table below). It is estimated that 23% of these were felony-level arrests. During the same two-year period, there were 1,954 arrests for property/fraud crimes committed against victims who were 70 years of age or older. Approximately 62% of these arrests were associated with incidents involving monetary or property loss valued at \$200 or more, which could make the offender subject to felony prosecution. Data are not sufficiently detailed to determine how many of these victims would be considered “incapacitated adults” under the proposal or how many of these offenses were committed by persons responsible for the care, custody, or control of the victim.

**Arrests Associated with Incidents Reported to Police
Involving Victims 70 Years of Age or Older**

	2010	2011
Arrests for Person Crimes		
Felony charge	116	108
Misdemeanor charge	369	401
Total	485	509
Arrests for Property/Fraud Crimes		
Monetary/property loss not specified	66	74
Monetary/property loss valued at \$200 or more	625	577
Monetary/property loss valued at less than \$200	321	291
Total	1,012	942

Person crimes include murder, manslaughter, forcible sex offenses, incest, robbery, kidnapping, intimidation, and assault.

Property/fraud crimes include burglary, larceny, motor vehicle theft, stolen property, fraud, forgery, embezzlement, extortion/blackmail, arson, and vandalism.

Source: Electronic criminal incident reports submitted to the Incident-Based Reporting (IBR) Repository System administered by the Virginia State Police as analyzed by the Department of Criminal Justice Services Research Center

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation is unlikely to increase the future state-responsible (prison) bed space needs of the Commonwealth. The proposal defines a separate and distinct Class 1 misdemeanor, and includes mandatory jail terms in certain circumstances, for crimes committed against incapacitated adults (a term which is narrowly defined in the proposed language). When the proposed crime is an additional offense to an underlying misdemeanor, the offender will serve his sentence in jail as a local-responsible offender and it will have no impact on the state-responsible population. The proposed misdemeanor crime could also be an additional offense to an underlying felony; however, the addition of a misdemeanor conviction will not change the sentencing guidelines recommendation in the most cases (in the small proportion of cases in which it would increase the recommendation, it does so by only one month). For these reasons, an impact on the state-responsible population is unlikely.

Local adult correctional facilities. Because it defines a new misdemeanor and creates mandatory jail terms in certain cases, the proposal is expected to increase the local-responsible (jail) bed space needs of the Commonwealth. However, the databases available to the Commission do not contain sufficient detail to estimate the number of cases that may be affected by the proposal. Therefore, the magnitude of the impact on jails cannot be quantified.

Adult community corrections programs. Because the proposed crime would be an additional offense to an underlying felony or misdemeanor, the proposal is not expected to increase the number of offenders on community supervision or participating in community corrections programs. For local community corrections programs, the proposal may delay the need for services for some offenders, as they will be serving mandatory jail terms prior to being released to the community.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice reports that, while this proposal could cause an increase in commitments, the impact of this proposal on bed space for juvenile correctional centers cannot be determined

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on juvenile detention center bed space needs cannot be determined.

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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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