



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1816

Amendment in the Nature of a Substitute

(Patrons Prior to Substitute – Kilgore, O’Quinn, and Ramadan)

LD#: 13104551

Date: 1/24/2013

Topic: Manufacture of methamphetamine in the presence of minor or incapacitated person

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 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

Under the current provision, it is unlawful for adults to allow children, over whom they have a custodial relationship, to be present during the manufacture of methamphetamine. This proposal amends § 18.2-248.02 to:

- expand the statute to make it unlawful to allow any child younger than 15 years of age or a mentally or physically incapacitated person to be present; and
- expand the provision to include circumstances in which at least two components or precursor substances used to manufacture methamphetamine are present and there is intent to manufacture methamphetamine.

Analysis:

According to the Circuit Court Case Management System¹ for fiscal years (FY) 2011 and FY2012, 34 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 but one of the offenders were convicted of at least one additional charge, most often related to the manufacture or distribution of a Schedule I/II drug. All but one of the 34 offenders received a state-responsible (prison) term ranging from one to 7.5 years, with a median sentence of 4 years. One offender did not receive an active term of incarceration to serve after sentencing.

¹ Formerly referred to as the Court Automated Information System (CAIS).

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. The Department of Juvenile Justice reports that this proposal will have no impact on bed space needs for juvenile correctional centers.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal will have no impact on bed space needs for juvenile detention centers.

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 3 of the Acts of Assembly of 2012, Special Session I, 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.

meth05_4551