



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2136
Enrolled
(Patron Prior to Enrollment – Hodges)

LD#: Enrolled

Date: 2/22/2013

Topic: Schedule III controlled substances

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 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:

The proposed legislation amends § 54.1-3450 of the *Code* to add two steroids, methasterone and prostanazol, to Schedule III of the Virginia Drug Control Act.

Methasterone and prostanazol were classified as Schedule III anabolic steroids under the federal Controlled Substances Act effective August 29, 2012.¹ Individuals may abuse anabolic steroids for several reasons, including improving their athletic performance, increasing muscle strength, or enhancing their appearance. In addition to psychological effects, such as hostility and dependence, anabolic steroid abuse can cause liver damage, sterility, and increased cholesterol levels.²

Possession of a Schedule III controlled substance (including anabolic steroids) is a Class 1 misdemeanor under § 18.2-250(A,b). This offense is punishable by a term of incarceration of up to twelve months in jail. However, the sale or distribution of anabolic steroids is a felony violation of § 18.2-248.5(A) punishable by imprisonment from one to ten years, including a mandatory minimum term of six months incarceration. The penalty for sale of a Schedule III controlled substance to a minor and using a minor to assist in the distribution of a Schedule III drug is imprisonment from ten to fifty years. In addition, under § 18.2-248(G), distribution of an imitation Schedule III drug is a Class 6 felony.

Analysis:

According to General District Court Automated Information System (CAIS) data for fiscal year (FY) 2011 and FY2012, 914 offenders were convicted of a misdemeanor for possession of a Schedule III

¹ *Federal Register*, Volume 77, No. 146 (July 30, 2012): Rules and Regulations, pgs. 44456-44462.

² Drugs and Chemicals of Concern: Anabolic Steroids. Office of Diversion Control, DEA, U. S. Department of Justice. Available at http://www.deadiversion.usdoj.gov/drugs_concern/anabolic.pdf.

controlled substance. More than half (59.8%) of these offenders did not receive an active term of incarceration to serve after sentencing. The remaining offenders (40.2%) were sentenced to a local-responsible (jail) term, with a median sentence of one month.

According to CAIS Circuit Court data for the same two-year period, there were no felony convictions under § 18.2-248.5(A) for selling or distributing anabolic steroids.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation expands the list of anabolic steroids in Schedule III of the Virginia Drug Control Act to include methasterone and prostanazol. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional convictions that may result from the proposal cannot be estimated. Therefore, the impact of the proposal cannot be quantified.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

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

Virginia's sentencing guidelines. Convictions under § 18.2-248.5(A) are not covered by the sentencing guidelines as the primary (most serious) offense. A conviction for such an offense, 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, while this proposal could cause an increase in commitments, the impact of this proposal on bed space needs for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on detention center bed space needs 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 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.