



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 2269

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Bell, Robert B.)*

LD#: 13105647

Date: 3/20/2013

Topic: Mandatory minimum sentences to be served consecutively

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
Cannot be determined, likely to be small
- **Juvenile Detention Facilities:**  
Cannot be determined, likely to be small

\* 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 proposal amends several sections of the *Code of Virginia* relating to mandatory minimum sentences. Currently, the sections affected by the proposal specify mandatory minimum terms of incarceration for certain offenses, but remain silent as to whether or not these sentences may be run concurrent to other sentences. The proposal requires that the mandatory minimum terms specified in the statutes included in the proposal be run consecutively with any other sentence received.

#### Analysis:

According to the Circuit Court Case Management System<sup>1</sup> and Sentencing Guidelines databases for fiscal year (FY) 2011 and FY2012, two felony offenders were convicted under one of the affected statutes for multiple offenses carrying mandatory minimum terms and received a sentence below the total amount of time that the offender would have received if the mandatory minimums had been run consecutively. Both of these offenders were sentenced to at least ten years in prison.

Data are insufficient to identify other cases that would be affected by the proposal, such as:

- Cases in which a mandatory minimum term was run concurrently with another sentence but the total sentence was higher than the mandatory minimum; and
- Cases involving mandatory minimum terms for misdemeanors that were run concurrently to another sentence.

<sup>1</sup> Formerly referred to as the Court Automated Information System (CAIS).

Some of the offenses that would be affected by the proposal, such as solicitation of child pornography to gain entry into a group, were added to the *Code* by the 2012 General Assembly. Therefore, no convictions for the new offenses carrying mandatory minimum terms could be observed in the databases available to the Commission.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By requiring that the mandatory minimum terms specified in certain sections of the *Code* be run consecutively with any other sentence received, the proposal is expected to increase the state-responsible (prison) bed space needs of the Commonwealth. Since the penalty for new offenses carrying mandatory minimum terms, such as solicitation of child pornography to gain entry into a group, became effective on July 1, 2013, existing databases do not yet contain information regarding the sentencing of these offenders. As a result, this portion of the impact cannot be estimated. In addition, existing databases do not contain sufficient information to determine if offenses carrying a mandatory minimum term were run concurrently with offenses that do not carry a mandatory minimum. The impact of this portion of the proposal on state-responsible (prison) bed space needs also could not be estimated.

Cases where offenders received a sentence that was lower than the sum of mandatory minimum terms affected by the proposal could be identified. Both of the offenders sentenced under an affected statute whose effective sentences fell below the sum of the mandatory minimum sentences received a prison term of at least ten years. As a result, any increase that would impact these offenders is expected to occur outside the six-year forecast window required by § 30-19.1:4.

**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 resources.** The proposal is not expected to increase the need for community corrections resources and will likely delay the need for services for some offenders affected by the proposal, as they will stay in jail or prison longer prior to being released to the community.

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

**Juvenile correctional centers.** The Department of Juvenile Justice (DJJ) reports that the proposal's impact on bed space needs for juvenile correctional centers cannot be determined. Any impact, however, is likely to be small.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on bed space needs for juvenile detention centers cannot be determined. Any impact, however, is likely to be small.

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**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.**