



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 567
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Watts)

LD#: 14105076

Date: 2/17/2014

Topic: Sexual battery

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 806 of the 2013 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal modifies § 18.2-67.4, relating to sexual battery. Currently, any person who sexually abuses (1) another against their will by force, threat, intimidation, or ruse, (2) an inmate or (3) a probationer or parolee is guilty of a Class 1 misdemeanor. The proposal expands the definition of sexual battery to include instances in which an individual sexually abuses another intentionally and without their consent more than once within a two-year period.

Section 18.2-67.5:1 increases the penalty for misdemeanor attempted sexual battery, sexual battery, consensual intercourse with a child, indecent exposure, or peeping from a Class 1 misdemeanor to a Class 6 felony if it is alleged in the indictment, etc., that the offender has previously been convicted of two or more of the listed offenses within ten years of the current offense.

Analysis:

By expanding the definition of sexual battery, the proposal may increase the number of offenders convicted of a felony for a third or subsequent misdemeanor offense under § 18.2-67.5:1.

According to fiscal year (FY) 2012 and FY2013 data from the Circuit Court Case Management System (CMS)¹, a felony violation of § 18.2-67.5:1 was the primary, or most serious, offense in 16 sentencing

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

events. More than two-thirds (68.7%) of these offenders received a state-responsible (prison) term, with a median sentence of two years. While 18.8% of the offenders received a local-responsible (jail) term with a median sentence of six months, the remaining 12.5% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the definition of sexual battery under § 18.2-67.4, the proposal may increase the number of offenders convicted of a felony for a third or subsequent misdemeanor offense under § 18.2-67.5:1. As a result, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data do not contain sufficient detail to estimate the number of additional felony convictions that may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

Local adult correctional facilities. Similarly, the magnitude of the impact on local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. Because the proposal could result in additional felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-67.5:1 are not covered by the sentencing guidelines as the primary (most serious) offense in a case; however, a conviction under this provision may 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 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 806 of the 2013 Acts of Assembly 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.

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