

## Department of Planning and Budget 2015 Fiscal Impact Statement

### 1. Bill Number: SB 710

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed  
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

### 2. Patron: Edwards

### 3. Committee: Senate Courts of Justice

### 4. Title: Human trafficking

### 5. Summary:

The proposed legislation would make numerous changes in state law regarding human trafficking, as follows:

#### Criminal provisions

##### *New offenses*

- Forced labor—Establishes as a Class 4 felony the use of coercion to compel an individual to provide forced labor or services. If the victim were a minor, the offense would be a Class 3 felony.
- Sexual servitude of a minor—Establishes as a Class 3 felony maintaining or making available a minor for the purpose of engaging the minor in commercial sexual activity.
- Sexual servitude of an adult—Establishes as a Class 4 felony the use of coercion or the threat of serious harm to compel an adult to engage in commercial sexual activity.
- Enabling forced labor or commercial sexual servitude—Establishes as a Class 4 felony the recruiting, transporting, harboring, receiving, providing, obtaining, isolating, maintaining, or enticing of an individual in furtherance of forced labor or commercial sexual servitude. If the victim were a minor, the offense would be a Class 3 felony.

##### *Penalty enhancements*

Under Virginia law, convictions of certain listed offenses can serve to enhance the penalties for other offenses. The proposed legislation would add the new human trafficking provision to those lists, as follows:

- Sentencing guidelines—The law provides for the establishment of sentencing guidelines that judges use in setting sentences for felony offenders. A prior conviction for any offense defined as a “violent felony offense” will serve to increase the sentencing range recommended to the judge for a case under consideration. The proposed legislation would add the new human trafficking offenses to the list of violent felony offenses.

- Criminal street gang—Participation in a “criminal street gang” is an offense punishable separate from the actual criminal act. If an offender has been convicted in the past of two “predicate criminal acts,” he or she can be charged with participation in a criminal street gang. The proposed legislation would add the new human trafficking offenses to the list of predicate criminal acts.
- Racketeering—State law prohibits racketeering, which it defines as a group of three or more persons engaged in two or more of a list of prohibited offenses. The proposed legislation would add human trafficking to the list of offenses used to define racketeering activity.

#### Other provisions

- Coordinating committee—Requires Secretary of Public Safety and Homeland Security to convene an Anti-Human Trafficking Coordinating Committee, consisting of representatives from various state agencies with expertise and interest in human trafficking. The committee is required to meet regularly to review and coordinate the work of state agencies in identifying and implementing actions to deter human trafficking.
- Civil action—Creates a civil cause of action against individual involved in conduct defined as human trafficking.
- Victims’ Fund—Creates the Virginia Prevention of Human Trafficking Fund. Monies in the fund, to be administered by the Department of Criminal Justice Services, shall be used to support victim services in human trafficking cases. The legislation does not identify a dedicated source of revenue for the fund.
- Prostitution—Establishes a procedure in which a juvenile, engaged in commercial sexual conduct, can be declared a child in need of services, rather than charged with delinquency.
- Restitution—Provides for mandatory restitution by offenders to victims of human trafficking of \$58 for each day the victim was subject to human trafficking.
- Asset seizure—Subjects property of persons convicted of human trafficking to seizure.

**6. Budget Amendment Necessary:** Yes. Item 385.

**7. Fiscal Impact Estimates:** Preliminary. See Item 8 below.

#### **Expenditure Impact:**

<i><b>Fiscal Year</b></i>	<i><b>Dollars</b></i>	<i><b>Fund</b></i>
2016	\$50,000	General
2017	\$0	
2018	\$0	
2019	\$0	
2020	\$0	
2021	\$0	

## **8. Fiscal Implications:**

The proposed legislation would establish new Class 3 and Class 4 felony offenses. Any person convicted of a Class 4 felony would be subject to a prison sentence of 2 to 10 years; for a Class 3 felony, 5 to 20 years. In addition, the legislation would expand the list of violent offenses used to enhance the criminal sentencing guidelines, expand the list of predicate criminal street gang offenses, and expand the list of racketeering offenses. All of these provisions could result in additional felony convictions or longer felony sentences. Accordingly, the proposed legislation could result in the need for additional prison beds.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 3 of the 2014 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

## **9. Specific Agency or Political Subdivisions Affected:**

Department of Corrections  
Secretary of Public Safety and Homeland Security  
Department of Criminal Justice Services  
Virginia Criminal Sentencing Commission

## **10. Technical Amendment Necessary:** None.

## **11. Other Comments:** None.

**Date:** 1/26/2015

**Document:** G:\LEGIS\fis-15\sb710.docx Dick Hall-Sizemore