



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1295

(Patron – Rasoul)

LD #: 16100828

Date: 1/4/2016

Topic: Abuse and neglect of children

#### 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\*\*

\*\*Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends §§ 16.1-228, 18.2-371.1, and 63.2-100 of the *Code of Virginia*, relating to child abuse and neglect, to remove language involving religious exemptions.

Currently, under § 18.2-371.1, any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child is guilty of a Class 4 felony. Additionally, it is a Class 6 felony for any parent, etc., to willfully, or by omission, act in a manner so gross, wanton, and culpable as to show a reckless disregard for human life in the care of a child. Section 18.2-371.1(C) provides an exemption to these felonies for any parent, guardian, or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination.

#### Analysis:

According to the Sentencing Guidelines database for fiscal year (FY) 2014 and FY2015, 142 offenders were convicted of a Class 4 felony under § 18.2-371.1(A) for abuse or neglect of a child resulting in serious injury. This was the primary, or most serious, offense in 101 of the cases. Of these, 19.8% did not receive an additional term of incarceration to serve after sentencing, while 30.7% received a local-responsible (jail) sentence, with a median sentence of six months. The remaining 49.5% received a state-responsible (prison) sentence, for which the median sentence was two years.

During the same two-year period, 552 offenders were convicted of a Class 6 felony under § 18.2-371.1(B) for gross, wanton, or reckless care of a child. This offense was the primary, or most serious, offense in 326 of the cases. Of these, 36.5% did not receive an active term of incarceration to serve after sentencing. Nearly half (49.4%) received a local-responsible (jail) sentence, with a median sentence length of three months. The remaining 14.1% were sentenced to a state-responsible (prison) term, with a median sentence of 1.5 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal removes the religious exemption contained in § 18.2-371.1(C). If the proposal expands § 18.2-371.1 to apply to circumstances beyond those that may currently be prosecuted under this section, it may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data sources do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal could affect the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Should the proposal result in 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 § 18.2-371.1 are covered by the sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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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 665 of the 2015 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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