



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 625
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Bell, Robert B.)

LD#: 16105733

Date: 2/22/2016

Topic: Abduction of minor for the purpose of prostitution

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 § 18.2-48(iii), relating to the abduction of a minor for the purpose of prostitution. Currently, under § 18.2-48(iii), the abduction of a child under 16 for the purpose of prostitution is a Class 2 felony. Under the proposal, this provision would be expanded to include the abduction of any minor. The abduction of any person for prostitution, regardless of age, is also punishable as a Class 2 felony pursuant to § 18.2-48(iv). Clause (iv) of § 18.2-48 was added to the *Code* by the 2011 General Assembly.

Per § 9.1-902, a violation of § 18.2-48(iii) is classified as a sexually violent offense and requires registration with the state's Sex Offender and Crimes against Minors Registry. Convictions under § 18.2-48(iv) do not necessitate registration. By expanding § 18.2-48(iii) to include the abduction of any minor for prostitution, a subset of individuals currently convicted under § 18.2-48(iv) may be prosecuted under § 18.2-48(iii) and, subsequently, be required to register as sex offenders. Pursuant to § 18.2-472.1, the first violation for failing to register as a sex offender committed by an offender who is not defined as sexually violent is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. The first Registry violation committed by a sexually violent offender is punishable as a Class 6 felony; a second or subsequent Registry violation is a Class 5 felony.

Analysis:

According to data from the Circuit Court Case Management System (CMS) no individuals have been convicted of a Class 2 felony under § 18.2-48(iv) for abducting a person for the purpose of prostitution since its addition to the *Code* in 2011.

General District Court CMS data for fiscal year (FY) 2014 and FY2015 indicate that 366 offenders were convicted of a Class 1 misdemeanor for a Registry violation. Of these offenders, 44.8% did not receive an active term of incarceration to serve after sentencing. The median sentence length for the 55.2% who were given a local-responsible (jail) term was two months.

According to the Sentencing Guidelines database for FY2014 and FY2015, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 566 sentencing events during this time period. While more than half (61.5%) of these offenders received a local-responsible (jail) sentence (with a median sentence of six months), 20.3% did not receive an active term of incarceration to serve after sentencing. The remaining 18.2% were given a state-responsible (prison) term, with a median sentence length of 1.3 years.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of § 18.2-48(iii), the proposal may increase the number of individuals required to register with the state's Sex Offender and Crimes against Minors Registry. In this way, the proposal may result in additional felony convictions for violations of Registry provisions. 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 determined.

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

Adult community corrections resources. Because the proposal could 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 §§ 18.2-48(iii) and 18.2-472.1 are covered by the current 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.

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.