

Department of Planning and Budget 2019 Fiscal Impact Statement

1. Bill Number: SB1603

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Obenshain

3. Committee: Senate Finance Committee

4. Title: Offenses related to prostitution and human trafficking and human trafficking prevention and awareness.

5. Summary: The bill establishes a special nonreverting fund to be known as the Virginia Prevention of Sex Trafficking Fund (the Fund) and expands offenses within the scope of a multi-jurisdictional grand jury. The proposed legislation also expands several prostitution-related offenses and expands the definition of a “predicate criminal act” associated with gang activity and “racketeering activity” under Virginia’s Racketeer Influenced and Corrupt Organization Act (RICO) provisions. It also adds newly-defined felony offenses that require offenders who commit these felonies on or after July, 2019 to register with Virginia Offender Registry.

6. Budget Amendment Necessary: Yes. Item 391.

7. Fiscal Impact Estimates: Preliminary (see Item 8 below).

8. Fiscal Implications: The bill establishes a special nonreverting fund to be known as the Virginia Prevention of Sex Trafficking Fund (the Fund) and expands offenses within the scope of a multi-jurisdictional grand jury. All moneys accruing to the Fund are to be paid into the state treasury and credited to the Fund. Moneys in the Fund are to be used for the purpose of promoting prevention and awareness of sex trafficking. The Fund shall be administered by the Department of Criminal Justice Services (DCJS), and the agency is required to adopt guidelines to make funds available to agencies of the state and local governments for the purpose of promoting awareness of and preventative training and education related to sex trafficking.

In addition to the various fees required by law, the proposed legislation provides that any person convicted of a misdemeanor violation of prostitution, aiding prostitution, or using a vehicle to promote prostitution is required to pay a \$100 fee and any person convicted of certain felony violations related to prostitution and human trafficking is required to pay a \$500 fee, both of which are paid into the Fund. Though the proposed legislation specifies fees for certain offenses, which are to accrue to the Sex Trafficking Fund, the amount of revenue which would accrue to the Sex Trafficking Fund is indeterminate at this time.

According to DCJS, it is unable to determine the associated administrative costs related to the proposed legislation.

The proposed legislation expands several prostitution-related offenses (prostitution/commercial sexual conduct), (aiding prostitution or illicit sexual intercourse), and (receiving money for procuring a person for prostitution) to include the touching of the intimate parts of another person with the intent to sexually arouse or gratify or allowing another person to touch one's own intimate parts with the intent to sexually arouse or gratify to the list of conduct that, when done for money or its equivalent, constitutes prostitution. Under the proposal violation of commercial sex trafficking constitutes a separate and distinct felony. The bill also increases the penalty for aiding prostitution or illicit sexual intercourse and for using vehicles to promote prostitution or unlawful sexual intercourse from a Class 1 misdemeanor to a Class 6 felony in cases in which the offender violates one of these provisions with a person under the age of 18. It adds newly-defined felony offenses that require offenders who commit these felonies on or after July, 2019 to register with Virginia Offender Registry.

Currently, the first Sex Offender Registry violation committed by 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 bill also expands the definition of a “predicate criminal act” associated with gang activity and “racketeering activity” under Virginia’s Racketeer Influenced and Corrupt Organization Act (RICO) provisions. By expanding prostitution/commercial sexual conduct, aiding prostitution or illicit sexual intercourse, and receiving money for procuring a person for prostitution to cover additional behaviors (the touching of intimate parts), the proposal also expands the scope of felonies related to gang and racketeering activity. Finally, the bill expands the definition of violent offenses for the purposes of Virginia’s sentencing guidelines. According to the Virginia Criminal Sentencing Commission, the bill expands the applicability of sentencing enhancements that are incorporated into the guidelines. Therefore, offenders who have prior convictions for violent felony offenses, as defined in § 17.1-805, would receive enhancements on the guidelines that increase the recommended sentences for those offenders.

Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. However, there is not sufficient data to estimate the impact of the proposed legislation on state-responsible (prison) bed space. In such cases, Chapter 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, there is not enough information available to reliably estimate how many additional inmates in jail could result from this proposed legislation. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails’ operating costs, e.g. correctional officers. The state’s share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board’s most

recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

9. Specific Agency or Political Subdivisions Affected: Department of Criminal Justice Service; Department of Corrections; Local and regional jails, Courts, and Commonwealth's Attorneys.

10. Technical Amendment Necessary: No

11. Other Comments: None