



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1301 **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – Hurst)***

LD#: 20105383

Date: 1/28/2020

Topic: Office of the Children's Ombudsman

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
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 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds Chapter 4.4 to Title 2.2 of the *Code of Virginia* to establish the Office of the Children's Ombudsman. This office is charged with effecting changes in policies and procedures; reviewing the actions of state and local departments of social services and other child-caring institutions; and ensuring compliance with rules and policies pertaining to children's protective services and the delivery of care to children in foster care and adoptive homes. The office is headed by the Children's Ombudsman, who is appointed for a term of four years by the Governor and subject to confirmation by the General Assembly.

Under the proposed § 2.2-448, any person 14 years of age or older who knowingly makes a false report of child abuse or neglect is guilty of a Class 1 misdemeanor; a second or subsequent violation is punishable as a Class 6 felony. These penalties parallel those currently existing for violations of § 63.2-1513 regarding the false reporting of child abuse or neglect by persons 14 years of age or older.

Analysis:

Existing data do not contain sufficient detail to estimate the number of additional individuals who may be convicted of false reporting of child abuse or neglect if the proposal were enacted. However, affected offenders may be sentenced similarly to those who are currently convicted under § 63.2-1513.

According to fiscal year (FY) 2014 through FY2019 data from the Juvenile & Domestic Relations Court Case Management System (CMS), one offender was convicted of a Class 1 misdemeanor under

§ 63.2-1513 for falsely reporting child abuse or neglect. This offender (also convicted of profane language over the public airways) received a local-responsible (jail) term of six months. According to Circuit Court CMS data for the same time period, there were no convictions for a second or subsequent violation of § 63.2-1513.

Impact of Proposed Legislation:

State adult correctional facilities. Because it adds a new felony to the *Code*, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Thus, the magnitude of the impact on prison beds cannot be quantified.

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

Adult community corrections programs. 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. Convictions under the proposed § 2.2-448 would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such convictions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 854 of the 2019 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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