

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB673H1

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

2. Patron: Mullin, M. P.

3. Committee: House

4. Title: Cruelty to children; penalty.

5. Summary: The proposed legislation increases the penalty for any person employing or having custody of a child who willfully causes or permits that child to be tortured physically or psychologically, tormented, mutilated, beaten, or cruelly treated from a Class 6 felony to a Class 4 felony.

The bill substitute also defines these Class 4 felonies as violent offenses for the purposes of determining felony sentencing guidelines. It also defines these Class 4 felonies as “barrier crimes” for offenders seeking employment or volunteering to provide care to children, elderly or the disabled. The bill substitute also adds willful and negligent acts of cruelty and injuries to children to the list of offenses prohibiting a person from operating or residing in a family day home.

6. Budget Amendment Necessary: Yes, Item 402.

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

8. Fiscal Implications: According to the fiscal impact statement (FIS) of the substitute bill by the Virginia Criminal Sentencing Commission (VCSC), Sentencing Guidelines data for fiscal year (FY) 2018 and FY 2019 indicate that there were 136 offenders convicted of cruelty to children under the current statute with 69 of the cases being the most serious or primary offense. Of these, approximately 12 received a state-responsible (prison) term with a median sentence of 1.4 years; 30 received a local-responsible (jail) term with a median sentence of 3 months; and 27 did not receive an active term of incarceration to serve after sentencing.

Class 6 felonies are generally punishable with a term of imprisonment between one and five years although the jury or court may alternatively elect to confine the offender in jail for no longer than 12 months and a fine of not more than \$2,500, either or both. The bill increases the penalty to Class 4 felony which are generally punishable with a term of imprisonment of no less than two to 10 years and a possible fine of not more than \$100,000. By increasing the penalty for individuals who willfully commit an act of child cruelty, the proposed bill could increase the length of sentence imposed, and therefore, increase the future state-responsible prison space needs.

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.

The impact on the Department of Juvenile Justice cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Courts, Commonwealth's Attorneys, Department of Corrections, local correctional facilities.

10. Technical Amendment Necessary: No

11. Other Comments: None