



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1631

(Patron – S.C. Jones)

LD#: 06-7100366

Date: 9/20/2006

Topic: Killing of a fetus

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined; likely to be negligible
- **Local Adult Correctional Facilities:**
Cannot be determined; likely to be negligible
- **Adult Community Corrections Programs:**
Cannot be determined; likely to be negligible

- **Juvenile Correctional Centers:**
None
- **Juvenile Detention Facilities:**
None

Summary of Proposed Legislation:

The proposal amends § 18.2-32.2, which prescribes penalties for killing a fetus. Under the proposal, language defining the crime is changed from “killing the fetus of another” to “killing a fetus.” Presumably, this change could allow the woman carrying the fetus to be prosecuted under this statute.

The crimes currently defined in § 18.2-32.2 became effective July 1, 2004.

Analysis:

Based on Pre/Post-Sentence Investigation (PSI) data available through April 2006, one person has been convicted under the existing § 18.2-32.2. In that case, the defendant was convicted of first-degree murder, non-premeditated killing of a fetus under § 18.2-32.2, and use of a firearm in the commission of a felony. The defendant received the maximum penalty of 40 years for the non-premeditated killing of a fetus and received a total sentence of life plus 43 years to serve.

According to information from the National Conference of State Legislatures (NCSL),¹ as of June 2006, at least 34 states have fetal homicide laws; however, from an examination of the NCSL information, no state appears to have defined a crime that allows the woman carrying the fetus to be prosecuted for the malicious killing of that fetus.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal may increase the state-responsible (prison) bed space needs of the Commonwealth because it expands an existing crime. While the magnitude of the impact cannot be quantified with existing data, it is expected to be negligible.

¹ See www.ncsl.org/programs/health/fethom.htm.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs. While the magnitude of the impact cannot be quantified with existing data, it is expected to be negligible.

Adult community corrections resources. The proposal may increase the need for adult community corrections resources, but the impact is expected to be negligible.

Virginia's sentencing guidelines. Convictions under § 18.2-32.2 are not covered by the sentencing guidelines as the primary (most serious) offense at conviction. However, convictions under this statute may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs. However, under the Length of Stay (LOS) guidelines, the minimum length of stay range would be 18 to 36 months.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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 and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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