



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1759 (Patron – Kilgore)

LD#: 07-8286372

Date: 12/11/2006

Topic: Carnal knowledge of certain minors

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$21,355 (0.83 beds)
- **Local Adult Correctional Facilities:**
Negligible
- **Adult Community Corrections Programs:**
None

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

Summary of Proposed Legislation:

The proposal amends § 18.2-64.1 to increase the statutory penalty for carnal knowledge of certain minors. Under the proposal, any person providing services (i) to juveniles under the purview of a Juvenile and Domestic Relations court, or (ii) to juveniles committed to the custody of the State Department of Juvenile Justice, who carnally knows, without force, any minor fifteen years of age or older, when such minor is confined or detained in jail or is a ward of the Department of Juvenile Justice, would be guilty of a Class 4 felony. This offense is currently a Class 6.

Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, only one offender was convicted of carnal knowledge of a minor under § 18.2-64.1. This offender did not receive an active term of incarceration.

By contrast, 283 offenders were convicted of carnal knowledge of a thirteen or fourteen year old child, a Class 4 felony, under § 18.2-63. In those cases, more than (54%) of the offenders were sentenced to a state-responsible (prison) term, while 29% were given a local-responsible (jail) term and the remaining 17% received probation without an active term of incarceration. For offenders sentenced to prison, the median sentence was 2.4 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the statutory penalty for carnal knowledge of certain minors by persons providing services to juveniles, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The impact is likely to be negligible, however, since data indicate that few offenders are convicted for this crime under § 18.2-64.1. The impact on state-responsible (prison) beds is expected to be less than one bed (0.83 beds) statewide by FY2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$21,355.

Local adult correctional facilities. While a felony conviction can result in a sentence to be served in a local or regional jail, the proposal is expected to have a negligible impact on local-responsible (jail) bed space needs.

Adult community corrections resources. The proposal is not expected to increase the need for adult community corrections resources and could delay the need for services for some affected offenders, if the proposal results in longer incarceration terms for those convicted of this crime.

Virginia's sentencing guidelines. Felony convictions under § 18.2-64.1 are covered by the sentencing guidelines. No adjustment to the guidelines is 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.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) 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 is \$21,355 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.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2006.
2. New cases representing state-responsible sentences were based on forecasts developed for the Secretary's Committee on Inmate Forecasting and approved in July 2006.
3. Cost per prison bed was assumed to be \$25,709 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.***
4. Cost per jail bed was based on The Compensation Board's FY2005 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.37 per day or \$10,362 per year. The local cost was calculated by using the daily expenditure cost of \$59.24 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$26.23 per day or \$9,581 per year. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.***

Assumptions relating to sentence lengths

1. The impact of the proposed legislation on criminal provisions, which would be effective on July 1, 2007, is phased in to account for case processing time of new cases.
2. The bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2005; for sex offenses the rate was 11.3%. Release dates for local-responsible felony convictions were estimated based on data provided by the Compensation Board on the average percentage of time actually served by felons sentenced in FY2003 to local jails; this rate was 89.7%.
3. To gauge the impact of increased penalty structures under the proposal, existing offenses in the *Code of Virginia* with penalty structures matching those proposed were analyzed. It was assumed that the distribution of sentences under the proposal will be similar to the distribution of sentences for Class 4 felony convictions involving carnal knowledge of a minor under § 18.2-63.