



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 34

(Patron – Ingram)

LD#: 07-2047344

Date: 5/11/2007

Topic: Taking indecent liberties with children by custodian

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 18.2-370.1 to expand the crime of indecent liberties to include cases in which a person in a custodial role kisses a child on the mouth while penetrating or attempting to penetrate the child's mouth with their tongue.

Currently, § 18.2-370.1 states that it is a Class 6 felony for a person 18 years of age or over to take indecent liberties with a child under the age of 18 over whom he maintains a custodial or supervisory relationship. Indecent liberties is defined by § 18.2-370.1 as the 1) exposure of sexual parts to a child or proposal that a child expose his sexual parts, 2) proposal that a child fondle the offender's sexual parts or proposal that the offender fondle the child's sexual parts, 3) proposal that the child perform an act of sexual intercourse or any act under § 18.2-361 (bestiality or non-forcible sodomy), 4) enticement, etc., of a child to enter a vehicle, house, etc., for any purpose specified above, or 5) sexual abuse as defined in § 18.2-67.10.

Analysis:

According to fiscal years (FY) 2005 and 2006 Sentencing Guidelines (SG) data, there were 118 convictions for indecent liberties under § 18.2-370.1. Of the 118 offenders, 29% received a local-responsible (jail) term (median sentence of six months). About 47% received a state-responsible (prison) term; for offenders committed to prison, the median sentence was 2.1 years; two (2%) of these cases were sentenced to the maximum penalty of five years allowed by statute.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the definition of the crime of custodial indecent liberties with children, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, criminal justice databases are insufficient to determine the

number of additional cases that could be prosecuted as indecent liberties under the proposal. Therefore, the impact on state-responsible (prison) bed space needs cannot be determined.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be quantified with existing data.

Adult community corrections resources. The proposal may increase the need for adult community corrections resources; however, the magnitude of the impact cannot be quantified with existing data.

Virginia's sentencing guidelines. Offenses under § 18.2-370.1 are covered by the sentencing guidelines as the primary (or most serious) offense in a sentencing event. Although the new element may increase the number of cases sentenced under these statutes, the essential nature of the crime will not change and these cases would be subsumed under existing 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 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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