



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 823

(Patron – Morgan)

LD#: 08-4004802

Date: 1/9/2008

Topic: Schedule II controlled substances

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 § 54.1-3448 of the *Code of Virginia* to add oripavine and lisdexamphetamine, its salts, isomers, and salts of its isomers, to the list of Schedule II controlled substances.

Analysis:

Oripavine is an opiate which is chemically similar to the Schedule II controlled substance thebaine. It has analgesic properties and a potential for dependence which is significantly greater than that of thebaine but slightly less than that of morphine. On September 24, 2007, the Drug Enforcement Agency (DEA) formally added oripavine as a Schedule II controlled substance under the Federal Controlled Substances Act. Although lisdexamphetamine is actually a stimulant with the potential for abuse, certain formulations of it are being used for the treatment of attention deficit hyperactivity disorder (ADHD) in children. Lisdexamphetamine dimesylate (trade name Vyvanse, marketed by Shire Pharmaceuticals) is a prescription medication used for the treatment of ADHD in children aged 6 to 12 years old. On June 4, 2007, the DEA formally added lisdexamphetamine, its salts, isomers, and salts of its isomers, as a Schedule II controlled substance under the Federal Controlled Substances Act.

According to fiscal year (FY) 2006 and FY2007 Sentencing Guideline (SG) data, there were 17,655 sentencing events involving Schedule I or II drug crimes. In these cases, the Schedule I/II drug crime was the primary (or most serious) offense. Approximately two-thirds of these convictions involved simple possession (§ 18.2-250(A,a)), while the remaining one-third were related to the sale or distribution of such a drug (§ 18.2-248(C)). Nearly half of offenders convicted of simple possession were sentenced to a term of incarceration: 38% were given a local-responsible (jail) term and another 11% received a state-responsible (prison) term. For possession offenders committed to prison, the median sentence was 1.6 years. Offenders convicted of sales-related crimes were much more likely to be incarcerated. While 26% were sentenced to serve time in jail, 56% received a prison term. For offenders committed to prison for a sales-related offense, the median sentence was two years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of existing felony provisions, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of cases that may result from adding oripavine and lisdexamfetamine and its derivatives to the list of Schedule II drugs cannot be estimated. The magnitude of the impact, therefore, cannot be quantified.

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

Adult community corrections resources. 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 by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under §§ 18.2-248(C) and 18.2-250(A,a) are covered by the sentencing guidelines. 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.

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.

SchedII01_4004