



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 969

(Patron – Shannon)

LD#: 08-0323724

Date: 1/7/2008

Topic: Causing or encouraging acts rendering children delinquent

#### 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 § 18.2-371 to make it a Class 6 felony for any person 18 years of age or older to engage in sexual intercourse with a child 15 years of age or older who is not his spouse, child, or grandchild as a part of initiation or recruitment into a criminal street gang.

Currently, under § 18.2-371, it is a Class 1 misdemeanor for any person 18 years of age or older to engage in consensual sexual intercourse with a child 15 or older who is not his spouse, child or grandchild. Under § 18.2-67.5:1, an offender may be subject to an enhanced Class 6 felony punishment if he is found guilty of a third offense of sexual abuse, including consensual sexual intercourse with a child in violation of § 18.2-371.

The proposed change to § 8.01-226.5:2 is technical in nature.

#### Analysis:

According to the Local Inmate Data System (LIDS) for calendar year (CY) 2005 and CY2006, 100 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor under § 18.2-371 for engaging in consensual sexual intercourse with a child 15 years or older. For 90 of the 100 offenders, this offense was the most serious charge at conviction. The majority of the offenders received a local-responsible (jail) term, for which the median sentence was 2.5 months.

Fiscal year (FY) 2006 and FY2007 Pre-Sentence Investigation (PSI) data reveal eight felony convictions under § 18.2-67.5:1 for a third offense of sexual abuse; however, none of the cases involved offenders with a current or prior misdemeanor convictions for consensual sexual intercourse with a child 15 years of age or older.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By adding a new felony, the proposal is expected to increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions associated with consensual sex with a minor age 15 or older as part of a gang initiation or recruitment cannot be estimated; therefore, the potential impact of the proposal cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal is expected to increase the need for local-responsible (jail) beds, but the magnitude of that impact cannot be determined.

**Adult community corrections programs.** 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 cannot be quantified.

**Virginia's sentencing guidelines.** As a new felony, the sentencing guidelines would not cover violations of the proposed § 18.2-371(B) as the primary (or most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the 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.

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**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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