



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2016

(Patron – Ebbin)

LD#: 09-0848492

Date: 12/22/2008

Topic: Human trafficking

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:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal amends the *Code of Virginia* to define crimes related to human trafficking. The proposed § 18.2-48.2 defines human trafficking as:

- Recruiting, harboring, transporting, providing, procuring, or obtaining any person for labor or services, through force, deception, or coercion, for the purpose of subjecting the person to involuntary servitude, debt bondage, slavery, concubinage, or prostitution;
- Knowingly subjecting any person to forced labor or services by causing or threatening physical harm or by physically restraining him or threatening to do so;
- Causing any person to engage in a sexually explicit performance or to be the subject of sexually explicit visual material by force, threat, intimidation, deception, or coercion; or
- Detaining any person against his will in a bawdy place or house of prostitution

An individual found guilty of human trafficking would be subject to the provisions of the Virginia Racketeer Influenced and Corrupt Organization Act (§ 18.2-512 et seq.). Under § 18.2-515, the criminal penalties for a violation of the RICO statutes include imprisonment for 5 to 40 years and a fine of not more than \$1 million. A second or subsequent offense is a Class 2 felony.

Under the proposed § 18.2-48.2, being forced, threatened, coerced, or deceived into committing prostitution or any other criminal offense while the defendant was a victim of human trafficking is an affirmative defense. The proposal also adds § 19.2-386.32 to the *Code*, which allows for the seizure and forfeiture of property that was used or obtained in the course of human trafficking.

In response to concerns regarding human trafficking, the 2007 General Assembly expanded § 18.2-59 to include acts in which a person extorts money, property, or any other pecuniary benefit by destroying, concealing, confiscating, withholding, or threatening to withhold a passport, immigration document, or other government identification document. In 2006, the General Assembly added extorting money or other benefit by threatening to report another as being illegally present in the U.S. to § 18.2-59. Offenses in § 18.2-59 are Class 5 felonies.

Analysis:

Because the proposal defines crimes not currently found in the *Code of Virginia*, cases involving human servitude or forced labor cannot be identified using existing state data sources. A number of crimes included in the proposal may be covered by existing provisions of the *Code of Virginia*, such as kidnapping or extortion. The number of cases that would constitute violations of the proposal cannot be identified.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates new felony provisions, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Some elements of the proposal may be covered under existing provisions; however, the number of additional felony convictions that may result from the proposal cannot be estimated. Therefore, the impact of the proposal on prison bed space needs cannot be determined.

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

Adult community corrections programs. The proposal may increase the need for adult community corrections programs, but the magnitude of the impact cannot be determined.

Virginia's 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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