



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### House Bill No. 911 (Patron – Bell)

LD #: 10102929

Date: 1/21/2010

Topic: Transfer of juveniles to circuit court

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

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

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends §§ 16.1-269.1 and 16.1-269.6, which outline the criteria and procedures for transferring juveniles to circuit court for trial as adults. When a juvenile charged with a felony is transferred to circuit court under the provisions of paragraph A of § 16.1-269.1, the proposal would require that all ancillary charges to that offense be included in the transfer. Currently, transfer of ancillary charges is not explicitly required under this paragraph.

Transfer of ancillary charges is presently required for juveniles transferred to circuit court under other paragraphs of § 16.1-269.1. Upon a finding of probable cause for any offense listed in paragraphs B or C of § 16.1-269.1, the juvenile court must certify the charge, and all ancillary charges, to the grand jury, thus divesting the juvenile court of any jurisdiction in the case.

#### Analysis:

In 2009, at the request of the Virginia State Crime Commission, the Sentencing Commission compiled data regarding juveniles<sup>1</sup> convicted in circuit court. According to this data, the number of cases in which a juvenile was convicted of a felony in circuit court fluctuated between 500 and 600 per year between FY2001 and FY2006. In FY2007 and FY2008, the number of juvenile convictions in circuit court rose to 678 and 697, respectively.

Based upon available data, approximately 57% of juveniles convicted in circuit court were convicted of an offense listed under § 16.1-269.1(B) or (C). The remaining 43% were most likely transferred under § 16.1-269.1(A), with some exceptions. For example, these data include juveniles automatically treated as adults in circuit court (pursuant to § 16.1-271) because they had previously been transferred and convicted as an adult; due to limitations of the data, these cases cannot be differentiated from the transfer cases. These data also include juveniles transferred to circuit court for an offense listed in § 16.1-269.1(B) or (C) who were ultimately convicted of a lesser offense.

<sup>1</sup> "Juveniles" refers to persons who were under the age of 18 at the time of the offense.

Of the juveniles convicted in circuit court of an offense not listed in § 16.1-269.1(B) or (C), one-third (33%) were given a state-responsible (prison) term with a median sentence of two years. For the 20% who were sentenced to a local-responsible (jail) term, the median sentence length was six months. Another 28% were sentenced to adult probation without an active term of incarceration. Roughly 18% received a juvenile sanction, including commitment to the Department of Juvenile Justice (DJJ) or juvenile probation. The remaining offenders (approximately 1%) received a blended sentence; juveniles who are given a blended sentence will serve up to age 21 at a DJJ facility and are then transferred to the Department of Corrections to serve the remainder of the term of incarceration.

---

**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal may increase the number of charges transferred to circuit court under § 16.1-269.1(A) and, therefore, may increase the number of convictions for a juvenile tried in circuit court. An increase in the number of convictions may increase the likelihood that an offender will be sentenced to a state-responsible (prison) term or increase the length of sentence given. Thus, the proposed legislation may increase the future state-responsible bed space needs of the Commonwealth. The number of additional juveniles who may be sentenced to prison or who may receive a longer term of incarceration, however, is unknown. Therefore, the impact of the proposal on prison beds cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal could increase local-responsible (jail) bed space needs; however, the size of the impact cannot be determined.

**Adult community corrections programs.** It is unclear how the proposed changes may affect judicial sentencing practices relating to adult community corrections; therefore, the potential impact on community corrections resources cannot be determined.

**Virginia's sentencing guidelines.** The sentencing guidelines cover nearly all felony convictions in circuit court. By statute, the guidelines apply in cases of juveniles tried and convicted in circuit court. An increase in the number of additional offenses resulting in conviction in circuit court could increase the sentence recommended 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.** According to the Department of Juvenile Justice (DJJ), 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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**