



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1237

(Patron – Scott)

LD#: 12103330

Date: 01/19/2012

Topic: Mandatory reporting of suspected child abuse

Fiscal Impact Summary:

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

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 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 § 63.2-1509 to expand the list of professionals required to report suspected child abuse or neglect to include individuals employed by a public or private institution of higher education and any other person having responsibility for the care, custody, or control of children. Under the proposal, it would be a Class 1 misdemeanor for any person required to report child abuse or neglect to fail to report the abuse or neglect within 72 hours of first suspecting it. It would be a Class 6 felony if the case involves sexual abuse of a child or results in the severe bodily injury or death of a child. The proposal also includes a provision that allows for the recovery of civil damages, reasonable attorney fees, and court costs by individuals who suffer a loss as the result of the failure of another to file a report required under § 63.2-1509.

Currently, the *Code* requires that certain professionals and officials report suspected child abuse or neglect to the Department of Social Services within 72 hours from the first suspicion of abuse or neglect. The penalty for not making a report to the Department of Social Services' hotline is a fine up to \$500 for a first offense. A second or subsequent violation is punishable with a fine of at least \$100 up to \$1,000.

Analysis:

According to the Juvenile and Domestic Court Automated Information System (CAIS) database for fiscal years 2007 to 2011, there were 17 convictions for a violation of § 63.2-1509 by ten offenders. No data were available on the fines assessed in each case. The General District Court Automated Information System (CAIS) database for fiscal years 2007 to 2011 indicates that another two offenders were convicted of violating § 63.2-1509 during this time period. One received a \$100 fine and the other received a \$500 fine. Existing databases are not sufficiently detailed to determine if any of these cases involved the sexual abuse of a child or resulted in the severe bodily injury or death of a child.

Impact of Proposed Legislation:

State adult correctional facilities. By defining a new Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate how many additional felony convictions may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

Local adult correctional facilities. Similarly, by defining a new Class 1 misdemeanor and Class 6 felony, the proposal may have an impact on local-responsible (jail) bed space needs. However, the magnitude of the 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. Data indicate that three offenders during a recent five-year period would have been subject to the proposed felony penalty; therefore, the impact on state community corrections resources is expected to be minimal.

Virginia's sentencing guidelines. As a new crime in the *Code of Virginia*, the proposed felony would not be covered by the sentencing guidelines as the primary (most serious) offense. A conviction for such an offense, however, may 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. It is possible that a person under the age of 18 could be subject to the provisions of the proposed legislation. In such an event, an adjudication for a Class 6 felony in juvenile and domestic relations district court would make that person eligible for commitment to a juvenile correctional center pursuant to subsection (A)(14) of § 16.1-278.8 of the *Code*. A person under the age 18 adjudicated delinquent for a Class 1 misdemeanor, with a prior felony or four Class 1 misdemeanors that were not part of the same incident, could be subject to commitment. Therefore, the legislative proposal may have an impact on juvenile correctional center bed space needs. However, the actual impact on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. It is possible that a person under the age of 18 could be subject to the provisions of the proposed legislation. In such an event, the person could be subject to pre-trial detention in a juvenile detention facility pursuant to § 16.1-248.1. In addition, an adjudication for a Class 1 misdemeanor or a Class 6 felony in juvenile and domestic relations district court would make that person eligible for post-dispositional detention under § 16.1-284.1. Therefore, the legislative proposal may have an impact on juvenile detention bed space needs. However, the actual impact on juvenile detention bed space needs cannot be determined.

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 890 of the 2011 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.