



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 717

(Patron – Kilgore)

LD#: 12102929

Date: 12/21/2011

Topic: Allowing children to be present where components of methamphetamine manufacture are found

#### 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 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 proposed legislation amends § 18.2-248.02. Under the current provision, it is unlawful for an adult to allow a child over whom he has a custodial relationship to be present during the manufacture of methamphetamine. The proposal:

- Removes the requirement of a custodial relationship between the adult and the child whom he allows to be present while methamphetamine is manufactured; and
- Expands the provision beyond the manufacture and attempted manufacture of methamphetamine to include circumstances in which at least two components for manufacturing methamphetamine are found.

Offenders convicted under § 18.2-248.02 are subject to imprisonment for not less than 10 nor more than 40 years and the penalty must be served consecutively with any other sentence. Under § 18.2-248(J), any person who possesses two or more different methamphetamine precursors with the intent to manufacture methamphetamine, methcathinone, or amphetamine is guilty of a Class 6 felony.

#### Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal year (FY) 2010 and FY2011, 18 offenders were convicted under § 18.2-248.02 for allowing a child to be present during the manufacture or attempted manufacture of methamphetamine. In addition to this offense, all offenders were convicted of at least one other charge, most often related to the distribution of a Schedule I/II drug. Most of the offenders (15 of the 18) received a state-responsible (prison) term ranging from 1.0 to 15 years, with a median sentence of 4 years. The remaining three offenders did not receive an active term of incarceration to serve.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing felony to include additional circumstances under which someone could be prosecuted for this offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from this aspect of the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

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

**Adult community corrections programs.** Because the proposal could result in additional felony convictions and subsequent supervision requirements, the proposal may affect adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections programs cannot be quantified.

**Virginia's sentencing guidelines.** Convictions under subsection § 18.2-248.02 are not covered by the sentencing guidelines as the primary (most serious) offense. Such a conviction, 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.** Since § 18.2-248.02 only applies to individuals 18 years of age or older, the Department of Juvenile Justice (DJJ) does not expect the proposal to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** Similarly, the Department of Juvenile Justice (DJJ) reports that the proposal will not affect juvenile detention facility bed space needs.

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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; 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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