



Fiscal Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 826 ***(Patron – Marshall)***

LD#: 12101173

Date: 1/3/2012

Topic: Bigamy

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:**
Cannot be determined, likely to be small
- **Juvenile Detention Facilities:**
Cannot be determined, likely to be small

* 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 expands § 18.2-362, relating to bigamy, to make it a Class 4 felony for any married person to purport to marry another person or, if the purported marriage takes place outside of the Commonwealth, to cohabit with the other person in the Commonwealth. The proposal also makes it a Class 4 felony for a married person to cohabit with another person, not his or her spouse, in the Commonwealth under the appearance of being married.

Currently, under § 18.2-362, it is a Class 4 felony for any married person to marry another person or, if the marriage takes place outside of the Commonwealth, cohabit with the other person.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2010 and 2011, 12 offenders were convicted of a felony under § 18.2-362 for bigamy. The bigamy offense was the primary (or most serious) offense at sentencing in all of the cases. Of these offenders, three (25%) did not receive an active term of incarceration to serve after sentencing and six (50%) received a local-responsible (jail) term, with a median sentence length of six months. The remaining three offenders received a state-responsible (prison) term, for which the median sentence was one year. Data from the General District Court Automated Information System for FY2010 and FY2011 indicate that two offenders were convicted of a Class 4 misdemeanor under § 18.2-365 for adultery during this two-year period.

Impact of Proposed Legislation:

State adult correctional facilities. By defining a new Class 4 felony offense, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Data are not available to estimate the number of additional felony convictions that would result from the proposal; therefore, the magnitude of the impact on prison beds cannot be determined.

Local adult correctional facilities. Similarly, the proposal may have an impact on 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 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 cannot be determined, the potential impact on community corrections programs cannot be quantified.

Virginia's sentencing guidelines. The sentencing guidelines cover violations of § 18.2-362 that are processed in Virginia's circuit courts. 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. According to the Department of Juvenile Justice (DJJ), although the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined, it is expected to be minimal.

Juvenile detention facilities. Similarly, the DJJ reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined; however, the impact is expected to be minimal.

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.

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