



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 16

(Patron – Stuart)

LD #: 12102094

Date: 12/19/2011

Topic: Indecent liberties with children

#### 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 proposal amends and reenacts § 18.2-370 making it a Class 5 felony for any person 18 years of age or over to take indecent liberties with any minor age 16 or less. Currently, § 18.2-370 states that it is a Class 5 felony for any person 18 years of age or over to take indecent liberties with a child under the age of 15. Indecent liberties is defined by § 18.2-370 as the: 1) exposure of sexual parts to a child or proposal that a child expose his sexual parts, 2) proposal that a child fondle the offender's sexual parts or proposal that the offender fondle the child's sexual parts, 3) proposal that the child perform an act of sexual intercourse or any act under § 18.2-361 (bestiality or non-forcible sodomy), or 4) the enticement, etc., of a child to enter a vehicle, house, etc., for any purpose specified above.

In 2005, the General Assembly expanded the applicability of § 18.2-370 by increasing the age threshold of the victim from 14 to 15 years old. In addition, the General Assembly increased penalties for acts of indecent liberties taken by a parent, step-parent, grandparent or step-grandparent.

#### Analysis:

According to Sentencing Guidelines data for fiscal year (FY) 2010 and FY2011, 106 offenders were convicted of a Class 5 felony under § 18.2-370(A) for indecent liberties with a child under age 15 (as the primary, or most serious, offense). More than half (52%) of these offenders received a state-responsible (prison) term, for which the median sentence was 3.0 years. Another 32% were given a local-responsible (jail) term with a median sentence of 9.5 months. The remaining 16% were not given an active term of incarceration to serve.

Currently, § 18.2-370(A) does not cover acts committed against 15-year-olds, as is proposed; however, offenders who commit such acts may be charged with a variety of misdemeanor offenses, including

indecent exposure. According to fiscal years 2010 and 2011 from the General District Court Automated Information System (CAIS), 693 offenders were convicted of indecent exposure under § 18.2-387. The majority were not given an active term of incarceration to serve. For offenders who received a local-responsible (jail) sentence, the median sentence was two months. The number of offenders convicted of indecent exposure that could be convicted of indecent liberties, under the proposal, is unknown.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because the proposal expands the applicability of an existing felony crime, there may be an impact on the state-responsible (prison) bed space needs of the Commonwealth. However, the databases available to the Commission are insufficiently detailed to provide specific information regarding offender and victim age and any acts that may constitute indecent liberties under § 18.2-370. The resulting impact on state-responsible (prison) beds cannot be determined.

**Local adult correctional facilities.** 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.** The proposal may have an impact on community corrections resources; however, the potential impact on adult community corrections programs cannot be determined.

**Virginia's sentencing guidelines.** Offenses under § 18.2-370 subsection A are covered by the sentencing guidelines. No adjustment to the guidelines is 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 (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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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.**