



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1316 (Patron – Marshall)

LD#: 13100037

Date: 9/18/2012

Topic: Sex-selective abortion

#### Fiscal Impact Summary:

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

- **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 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal adds § 18.2-71.2, relating to intentionally performing an abortion for the sole and exclusive purpose of ending a pregnancy because of the sex of the unborn child. Under the proposal, a person who commits the offense of sex-selective abortion would be guilty of a Class 4 felony. As part of the informed written consent, a statement that it is a criminal offense for a physician to perform an abortion due to the sex of the unborn child is required by the proposed amendment to § 18.2-76.

Currently, under §§ 18.2-71 and 18.2-71.1, producing an abortion or performing partial birth infanticide are Class 4 felonies. It is a Class 3 misdemeanor, as defined by § 18.2-76.1, to encourage, promote or advertise any prohibited abortion procedures. Consent issues related to abortions are punishable as Class 3 misdemeanors under § 16.1-241.

#### Analysis:

There were no convictions for any abortion law violations in either the General District or Circuit Court Automated Information System (CAIS) for fiscal years 2011 and 2012.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** Because it creates a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Although the magnitude of the impact on prison beds cannot be quantified, it is likely to be small.

**Local adult correctional facilities.** Similarly, the proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined. The impact, if any, is likely to be small.

**Adult community corrections programs.** Because the proposal could result in additional 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 resources cannot be quantified.

**Virginia’s sentencing guidelines.** As a new felony in the *Code of Virginia*, the sentencing guidelines would not cover violations of the proposed § 18.2-71.2. However, convictions for this crime 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 subjected to the provisions § 18.2-71.2 of the *Code of Virginia*. In such an event, an adjudication for a 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*. Therefore, the legislative proposal may have an impact on juvenile correctional center bed space needs. The actual impact cannot be determined, but is remote at best.

**Juvenile detention facilities.** Similarly, if a person under the age of 18 is subjected to the provisions of § 18.2-71.2 of the *Code of Virginia*, he or she could be subject to pre-trial detention in a juvenile detention facility pursuant to § 16.1-248.1 of the *Code of Virginia*. In addition, an adjudication for a Class 4 felony in juvenile and domestic relations district court would make that person eligible for post-dispositional detention under § 16.1-284.1 of the *Code*. Therefore, the legislative proposal may have an impact on juvenile detention bed space needs. The actual impact cannot be determined, but is remote at best.

---

**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 3 of the Acts of Assembly of 2012, Special Session I, 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.**

abort01\_0037