



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2294

(Patron – Wilt)

LD#: 13103930

Date: 1/15/2013

Topic: Carnal knowledge of defendants on bond

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 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 expands § 18.2-64.2 to make carnal knowledge of defendants on bond by any employee or contractual employee of, or a volunteer with, a bail bond company punishable as a Class 6 felony. Currently, the Class 6 felony defined in § 18.2-64.2 only includes the carnal knowledge of an inmate, parolee, probationer, detainee, pretrial defendant or posttrial offenders by certain corrections officials.

Analysis:

Existing data do not contain sufficient detail to determine the number of instances in which an employee, etc., of a bail bond company commits carnal knowledge with a defendant on bond. However, offenders convicted under the proposal may be sentenced similarly to those who are currently convicted under the existing § 18.2-64.2.

According to Circuit Court Case Management System (CCMS)¹ data for fiscal year (FY) 2010 through FY2012, 10 offenders were convicted of carnal knowledge of an inmate, etc., under § 18.2-64.2 as their primary (most serious) offense at sentencing. While majority (70%) of these offenders did not receive an active term of incarceration to serve after sentencing, two offenders were sentenced to local-responsible (jail) terms of approximately four and twelve months, respectively. The remaining offender was sentenced to a state-responsible (prison) term of three years.

¹ Formerly referred to as the Court Automated Information System (CAIS).

Impact of Proposed Legislation:

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

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. Convictions under § 18.2-64.2 are not covered by the sentencing guidelines as the primary (most serious) offense. However, convictions under this statute 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. According to the Department of Juvenile Justice, the proposal may have a limited impact on juvenile correctional center bed space needs. However, the actual impact cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that, while the legislative proposal may have a limited impact on juvenile detention bed space needs, the actual impact 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 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.

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