



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 914

(Patron – Sickles)

LD#: 14101334

Date: 12/3/2013

Topic: Fornication

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
None (\$0)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

#### Summary of Proposed Legislation:

The proposed legislation amends several sections of the *Code of Virginia* relating to sex offenses. In addition to repealing § 18.2-344, which prohibits fornication, the proposal replaces the term “adultery or fornication” with “sexual intercourse” in § 18.2-366 (relating to sexual intercourse by persons forbidden to marry and incest) and § 18.2-67.5:2 (relating to subsequent convictions for certain acts of felony sexual assault). In § 18.2-346 (relating to prostitution), “adultery” and “fornication” are removed and the phrase “sexual intercourse with a person other than his spouse” is inserted. The proposal also modifies § 4.1-225 (relating to the suspension of ABC licenses) and § 15.2-1724 (relating to territorial limits of police officers) to remove references to § 18.2-344.

Currently, § 18.2-344 defines fornication as an unmarried person engaging in sexual intercourse with any other person and it is currently a Class 4 misdemeanor. Under § 18.2-365 adultery is defined as voluntarily engaging in sexual intercourse with any person who is not one’s spouse and a person who commits adultery is guilty of a Class 4 misdemeanor.

#### Analysis:

According to the Virginia Supreme Court’s General District Court Case Management System (CMS), a total of eight offenders were convicted of fornication under § 18.2-344 during fiscal years (FY) 2012 and 2013.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** Because fornication is punishable as a Class 4 misdemeanor and subject to a fine only, repealing § 18.2-344 will not have an impact on the state-responsible (prison) population needs of the Commonwealth. Replacing references to “adultery or fornication” with the term

“sexual intercourse” in the statutes listed above is not expected to have an impact on prison bed space needs, as “sexual intercourse” is used in the statutory definitions of both “adultery” and “fornication” and the proposed changes do not expand the applicability of the affected felony offenses.

**Local adult correctional facilities.** Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

**Adult community corrections programs.** The proposal is not expected to increase the need for adult community corrections resources.

**Virginia’s sentencing guidelines.** The sentencing guidelines do not cover misdemeanor violations as the primary (or most serious) offense in a sentencing event. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice 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 is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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