



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1559 (*Patron – Rust*)

LD#: 15102299

Date: 12/28/2014

Topic: Abuse and neglect of incapacitated adults

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**
- **Juvenile Detention Facilities:**
Cannot be determined**

**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the 2014 Acts of Assembly, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-369 of the *Code of Virginia* to increase the penalty for abuse or neglect of an incapacitated adult in certain circumstances. Under the proposal, the penalty for this offense would increase from a Class 1 misdemeanor to a Class 6 felony if the abuse or neglect is committed by a person responsible for the care, custody or control of the incapacitated adult and it is committed in a manner that is so gross, wanton, and culpable as to show a reckless disregard for human life.

Currently, under § 18.2-369(A), abuse or neglect of an incapacitated adult by a person responsible for the care, custody or control of that individual is a Class 1 misdemeanor. Any subsequent violation is a Class 6 felony. Under § 18.2-369(B), abuse or neglect resulting in serious injury or disease is a Class 4 felony or, if death results, a Class 3 felony.

Analysis:

During fiscal year (FY) 2013 and FY2014, a total of 24 offenders were convicted of a misdemeanor under § 18.2-369(A) for abusing or neglecting an incapacitated adult (in these cases, the abuse/neglect was the primary, or most serious, offense at sentencing). This includes offenses in juvenile and domestic relations district court, general district court, and circuit court. Available data do not contain sufficient detail to determine how many of these offenses involved a reckless disregard for human life and, therefore, might be subject to the proposed felony. There were no convictions for a subsequent violation, the Class 6 felony under § 18.2-369(A), during the two-year period.

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. Existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. As a result, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. 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 resources cannot be quantified.

Virginia's sentencing guidelines. As new felony offense, convictions under the proposed section of the *Code* would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities 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 2 of the 2014 Acts of Assembly, 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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