



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 2138

(Patron – Yancey)

LD #: 15102709

Date: 12/31/2014

Topic: Human trafficking

#### 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 § 18.2-356 of the *Code of Virginia* to expand the types of acts covered by this provision. Under the existing statute, it is a Class 4 felony to receive money for procuring a person to engage in an unlawful sexual act or causing a person to engage in forced labor or services, concubinage, prostitution, or the manufacture of any obscene material or child pornography. The proposal expands the statute to include persuading or using coercion to cause or persuade any person to participate in these activities. “Coercion,” as defined in the proposal, includes the use of force, threats, destruction or taking of a passport, and debt bondage. “Debt bondage” is defined under the proposal as inducing an individual to participate in concubinage, prostitution, the manufacture of pornography or labor to satisfy a real or purported debt. The penalty would remain a Class 4 felony.

#### Analysis:

Existing data sources do not contain sufficient detail to estimate the number of instances that would be affected by the proposal. However, individuals convicted of a felony for receiving money for persuading or using coercion to cause or persuade another to engage in forced labor, etc., may be sentenced similarly to those convicted under the existing provisions of § 18.2-356.

According to Sentencing Guidelines data for fiscal year (FY) 2010 through FY2014, 12 offenders were convicted of a felony for receiving money for procuring a person to engage in an unlawful sexual act in violation of § 18.2-356(i). This offense was the primary, or most serious, offense in nine of the cases. Over half (55.6%) of these offenders received local-responsible (jail) terms, with a median sentence length of four months. While two offenders did not receive an active term of incarceration to serve after sentencing, the remaining two offenders were sentenced to a state-responsible (prison) term of 1.5 years.

The Circuit Court Case Management System (CMS) indicates that one offender was convicted of a felony for receiving money for procuring a person to engage in prostitution during this time period. This offender received a local-responsible (jail) term of seven days. No convictions relating to forced labor, concubinage, or manufacture of obscene material or child pornography under § 18.2-356(ii) were identified in Circuit Court Case CMS data for the same time period.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing felony related to procuring a person for certain activities, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that would result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may also 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 additional 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 cannot be determined.

**Virginia's sentencing guidelines.** Convictions under § 18.2-356(i) are covered by the sentencing guidelines. While not covered as the primary (or most serious) offense in a case, convictions under § 18.2-356(ii) 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.** 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.

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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 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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