



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2321 (Patrons – LaRock, et al.)

LD#: 15103592

Date: 1/19/2015

Topic: Pain-Capable Unborn Child Protection Act

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 **
- **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 adds § 18.2-76.3 through 18.2-76.12 relating to abortion under the Pain-Capable Unborn Child Protection Act. The proposal includes legislative findings related to abortions and prohibits abortions after the unborn child reaches 20 or more weeks postfertilization age. Abortions at 20 or more weeks postfertilization not otherwise prohibited by the proposal are to be performed in such a way that provides for the best opportunity for the unborn child to survive. Any physician who performs an abortion would be required to report certain details to the Board of Health. An intentional or reckless falsification of the report to the Board would be punishable as a Class 1 misdemeanor. Any person who intentionally or recklessly performs or induces an abortion that violates the provisions of the proposal would be guilty of a Class 6 felony.

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 under § 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:

According to fiscal year (FY) 2013 and FY2014 data from the General District Court and Circuit Court Case Management Systems (CMS), no one was convicted under the existing abortion-related statutes of §§ 18.2-71, 18.2-71.1, 18.2-76.1 or 16.1-241 during the two-year period.

Impact of Proposed Legislation:

State adult correctional facilities. By establishing 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, the impact, if any, 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. The sentencing guidelines do not currently cover abortion law violations as the primary (most serious) offense in a sentencing event. However, a conviction for an abortion-related crime (as an additional offense) 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. The Department of Juvenile Justice reports the impact of this proposal on bed space needs for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on detention center bed space needs 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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