



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 1188

(Patron – Obenshain)

LD #: 15103242

Date: 1/6/2015

Topic: Human trafficking; commercial sexual activity

#### 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 adds § 18.2-355.1, relating to human trafficking, to the *Code of Virginia*. Under the proposal, it would be a Class 2 felony for any person to recruit, transport, provide, etc., another person to engage in commercial sexual activity knowing, or in reckless disregard of the fact, that coercion or fraud will be used to cause such person to engage in commercial sexual activity. Any person who recruits, transports, provides, etc., a minor to engage in commercial sexual activity would also be guilty of a Class 2 felony. If the minor is less than 13 years of age, a mandatory minimum sentence of 20 years would apply. If the minor is 13 or 14 years of age, the mandatory minimum would be 15 years and, if the minor is age 15 through 17, the mandatory minimum would be 10 years. The proposal requires that any mandatory minimum term be served consecutively with any other sentence. Finally, any person who receives money or its equivalent from participation in an enterprise that has engaged in an act of commercial sexual activity would be guilty of a Class 3 felony under the proposal.

#### Analysis:

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.

Circuit Court CMS data for FY2012 and FY2013 indicate that seven offenders were convicted under § 18.2-47(B) for kidnapping another for forced labor or service. This offense was the most serious offense in four of the cases. Three offenders received state-responsible (prison) terms, with a median sentence of two years, while the remaining offender was sentenced to a local-responsible (jail) term of three months. According to Circuit Court CMS data for this time period, there were no convictions under § 18.2-59 for extorting money, property, or pecuniary benefit by withholding or threatening to withhold a passport or other government identification document or extorting money, etc., by threatening to report another as being illegally present in the U.S.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By adding new felony offenses relating to commercial sexual activity and establishing mandatory minimum terms, 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.** As new felony offenses, convictions under the proposed § 18.2-355.1 would not be covered by the sentencing guidelines as the primary, or most serious, offense in a case. 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 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.**