

## Department of Planning and Budget 2015 Fiscal Impact Statement

**1. Bill Number: SB 1188**

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

**2. Patron: Obenshain**

**3. Committee: Passed both houses**

**4. Title: Commercial sex trafficking**

**5. Summary:**

The proposed legislation would make numerous changes in the laws relating to commercial sex, as follows:

- Procurement—Currently it is a Class 4 felony to receive money in exchange for procuring any person for the purpose of causing such person to engage in unlawful sexual activity or causing any person to engage in forced labor, prostitution, etc. The proposed bill would increase the offense to a Class 3 felony if the person procured were under the age of 18.
- Pandering—Currently, it is a Class 4 felony to receive any money from the earnings of a prostitute. The proposed legislation would increase the offense to a Class 3 felony if the prostitute were under the age of 18.
- Commercial sex trafficking—The proposed legislation defines “commercial sex trafficking” as soliciting, recruiting, encouraging, or otherwise causing, or attempting to cause, a person to actively participate in prostitution with the intent that the person being solicited will pay or give money from his or her earnings received from prostitution to the person doing the soliciting. The legislation would make commercial sex trafficking a Class 5 felony, with the following enhancements:
  - If person doing the soliciting is an adult and the solicited person is a minor: Class 3 felony;
  - If force, intimidation, or deception is used: Class 4 felony.
- Sex offender registry—Persons convicted of commercial sex trafficking involving a minor would be required to register as sex offender.
- Violent felony offense—Any conviction of the commercial sex trafficking provisions would be included in the list of violent felony offenses used to develop sentencing guidelines for felony offenses. The recommended sentencing guideline for any felony

offense is required to be enhanced if the offender has a prior conviction of a violent felony offense.

- Criminal street gang—Participation in a “criminal street gang” is an offense punishable separate from the actual criminal act. If an offender has been convicted in the past of two “predicate criminal acts,” at least one of which is a violent crime, he or she can be charged with participation in a criminal street gang. The proposed legislation would add the new human trafficking offenses to the list of predicate criminal acts.
- Racketeering—The definition of racketeering, which carries its own penalty structure, would be expanded to include commercial sex trafficking.

6. **Budget Amendment Necessary:** Yes. Item 385. The General Assembly has included funding for the fiscal impact of this legislation in the budget bill it has passed.

7. **Fiscal Impact Estimates:** Final. See Item 8 below.

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2016	\$50,000	General
2017	\$0	
2018	\$0	
2019	\$0	
2020	\$0	
2021	\$0	

**8. Fiscal Implications:**

The proposed legislation adds new felony offenses relating to the recruitment of persons for prostitution, expands the felony penalties for some existing statutes, and expands the requirements for sex offender registration. The first registry violation (failure to register, failure to update registry information, etc.) is a Class 1 misdemeanor; other violations are Class 6 felonies.

Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or 1 to 5 years in prison. The new Class 3, 4, and 5 felony offenses created by the proposed legislation would have the potential of longer prison sentences. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2014), the estimated total state support for local jails averaged \$30.54 per inmate, per day in FY 2013.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 3 of the 2014 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

**9. Specific Agency or Political Subdivisions Affected:**

Department of Corrections  
Local and regional jails.

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** Identical to HB 1964.

**Date:** 3/6/2015

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