Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1380
(Patron – Obenshain)

LD#: 15104005 **Date:** 1/20/2015

Topic: Schedule I controlled substances

Fiscal Impact Summary:

- **State Adult Correctional Facilities:** None ($0)
- **Local Adult Correctional Facilities:** None ($0)
- **Adult Community Corrections Programs:** None ($0)
- **Juvenile Correctional Centers:** Cannot be determined*
- **Juvenile Detention Facilities:** Cannot be determined*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 54.1-3446 of the *Code of Virginia* to add three chemical compounds to the list of Schedule I controlled substances.

In 2014, the General Assembly enacted legislation giving the Board of Pharmacy authority to amend its regulations to add substances to Schedule I or II of the Drug Control Act via an expedited regulatory process. Pursuant to § 54.1-3443, the Board must notify the General Assembly's House and Senate Courts of Justice Committees of any new compounds added to the list of Schedule I or II controlled substances. The scheduling of new compounds adopted by the Board of Pharmacy via this process remains in effect for a period of 18 months, after which the compounds will be de-scheduled unless the Drug Control Act is amended by legislation passed by the General Assembly. The Board of Pharmacy added the three compounds specified in the proposal to Schedule I of the Drug Control Act, effective February 11, 2015.

Analysis:

One of the three compounds identified in the proposal, referred to as methylone or bk-MDMA, has substantial chemical, structural, and pharmacological similarities to the amphetamine MDMA, also known as ecstasy.[1] The other two compounds (AB-CHMINACA and 5-fluoro-AMB) are considered synthetic cannabinoids or cannabimimetic agents. These types of compounds are commonly referred to as synthetic marijuana, K2, or Spice.[2]

[1] Drug Enforcement Administration, Office of Diversion Control, Drug & Chemical Evaluation Section, 3,4-Methylenedioxymethcathinone (Methylone) ["Bath salt," bk-MDMA, MDMC, MDMCAT, "Explosion," "Ease," "Molly"], October 2013 (available at http://www.deadiversion.usdoj.gov/drug_chem_info/methylone.pdf).

[2] Drug Enforcement Administration, Office of Diversion Control, Federal Register Volume 79, Number 244, Proposed Rules, Pages 75767-75771 [Friday, December 19, 2014] (available at http://www.deadiversiontest.usdoj.gov/fed_regs/rules/2014/fr1219.htm)

Impact of Proposed Legislation:

State adult correctional facilities. Because the Board of Pharmacy has already added the three compounds specified in the proposal to Schedule I of the Drug Control Act, the proposed legislation is not expected to have any additional impact on the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposed legislation will not have any additional impact on local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal will not affect adult community corrections programs.

Virginia's sentencing 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.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is $0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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