



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 556

(Patron – LaRock)

LD #: 16102723

Date: 1/3/2016

Topic: Abuse and neglect of children

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 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

Currently, under § 18.2-371.1, any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child is guilty of a Class 4 felony. Additionally, it is a Class 6 felony for any parent, etc., to willfully, or by omission, act in a manner so gross, wanton, and culpable as to show a reckless disregard for human life in the care of a child. The proposal expands § 18.2-371.1 to include abuse and neglect of a viable fetus. The proposed provisions would not apply to the performance of a lawful abortion.

Analysis:

According to the Sentencing Guidelines database for fiscal year (FY) 2014 and FY2015, 101 offenders were convicted of a Class 4 felony under § 18.2-171.1(A) for abuse or neglect resulting in serious injury to a child. For these offenders, the abuse/neglect charge was the primary (or most serious) offense at sentencing. Half of the offenders (49.5%) received a state-responsible (prison) sentence with a median sentence of two years. Another 30.7% received a local-responsible (jail) sentence with a median sentence of six months. The remaining 19.8% did not receive an active term of incarceration to serve after sentencing.

During the same two-year period, 326 offenders were convicted of a Class 6 felony under § 18.2-371.1(B) for gross, wanton or reckless care of a child as the most serious offense. Of these, 14.1% of the offenders received a state-responsible (prison) term with median sentence of 1.5 years. An additional 49.4% received a local-responsible (jail) sentence; the median sentence for these offenders was three months.

More than one-third (36.5%) of the offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data sources do not provide sufficient detail to estimate the number of additional felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-371.1 are covered by the 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly 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.

abuse01_2723