

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB1516 S2

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

2. Patron: Watts

3. Committee: Courts of Justice

4. Title: Prostitution-related crimes; minors; penalties.

- 5. Summary:** Under current law, the following crimes are punishable as Class 1 misdemeanors if a minor is involved: keeping a bawdy place (§18.2-347); aiding prostitution or illicit sexual intercourse (§18.2-348); and using vehicles to promote prostitution or unlawful sexual intercourse (§18.2-349). The proposed legislation increases the penalties for these offenses to Class 6 felonies. The bill adds felony violations of these offenses to: (a) the definition of violent felony for the purposes of the sentencing guidelines, (b) the list of predicate criminal acts for street gangs, (c) the list of offenses that may constitute racketeering under the Virginia Racketeer Influenced and Corrupt Organization Act, and (d) the list of offenses that may be investigated by a multi-jurisdiction grand jury.

The bill requires offenders who are found guilty of felony offenses of these crimes after July 1, 2018 to register with the Sex Offender and Crimes Against Minors Registry. The bill expands the crime of threatening, attempting or assisting in abduction for the purpose of concubinage or prostitution to any child under the age of 16. Violation of this provision is punishable as a Class 5 felony. The bill also amends the crime of leaving a spouse in a bawdy place for the purposes of prostitution by removing the reference to wife and expanding the protection to any spouse. Violation of this provision is punishable as a Class 4 felony. The bill establishes that the Class 6 felony offense for keeping, residing in or visiting a bawdy place with a person under the age of 18 requires that the offender knew that such place was used for lewdness, assignation or prostitution.

The substitute bill specifies that any adult who violates the prohibition against using vehicles to promote prostitution or unlawful sexual intercourse with a minor (§18.2-349) is guilty of a Class 6 felony.

6. Budget Amendment Necessary: Yes. Item 391.

7. Fiscal Impact Estimates: Preliminary. See Item 8 below.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
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2019	\$50,000	General
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	
2024	\$0	
2025	\$0	

- 8. Fiscal Implications:** The proposed legislation expands the applicability of several existing statutes including violations of Sex Offender Registry requirements, participation in gang-related activities, and racketeering under the Virginia RICO Act, all of which carry felony punishments. The expansion of these felony offenses may increase the number of persons sentenced to jail or prison. The bill increases penalties for prostitution-related offenses when the crime involves a minor for (i) aiding prostitution and (ii) using vehicles to promote prostitution from Class 1 misdemeanors to Class 6 felonies. The substitute bill increases the penalty for keeping, residing in, or visiting a bawdy place, when it is known that the bawdy place is used for lewdness, assignation or prostitution from a Class 1 misdemeanor to a Class 6 felony. For someone convicted of a Class 6 felony, a judge has the option of sentencing him to up to one year in jail, or one to five years in prison.

The bill expands the crime of threatening, attempting or assisting in the abduction of any female under the age of 16 for the purposes of prostitution to include any child under the age of 16. Expanding this provision could increase the number of offenders convicted of a Class 5 felony. For someone convicted of a Class 5 felony, a judge has the option of sentencing him to up to one year in jail, or one to ten years in prison.

The bill also amends the crime of leaving a spouse in a bawdy place for the purpose of prostitution by removing the reference to wife and expanding it to include any spouse. Expanding this provision could increase the number of offenders convicted of pandering, which is punishable as a Class 4 felony. A Class 4 felony carries a prison sentence of two to ten years.

Although 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 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

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 836 of the 2017 Acts of Assembly 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, Courts.

10. Technical Amendment Necessary: None

11. Other Comments: Senate amendments provide that this act shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2018 by the General Assembly that becomes law.