



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 415 (Patron – Simon)

LD #: 18101296

Date: 12/14/2017

Topic: References to gender in specific crimes

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000*
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **Juvenile Direct Care:**
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 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends several sections of the *Code of Virginia* to modify references to gender. In § 18.2-49, the proposal replaces “female under sixteen years of age” with “child under 16 years of age.” In § 18.2-368 and § 19.2-305, the proposal replaces “wife” with “spouse.” Finally, in § 18.2-417, each reference to “female” is changed to “person.”

Penalties for crimes defined in § 18.2-49 and § 18.2-368 would remain unchanged if the proposal was enacted. Under § 18.2-49, it is a Class 5 felony to (1) threaten or attempt to abduct any other person with intent to extort money or pecuniary benefit, or (2) assist in the abduction of, or threaten to abduct, any person with the intent to defile, or (3) assist in the abduction of, or threatens to abduct, any female under the age of 16 for the purposes of concubinage or prostitution. Under § 18.2-368, it is a Class 4 felony if a person, by force, fraud, intimidation, or threats, places or leaves or procures any other person to place or leave his wife in a bawdy place for the purpose of prostitution or unlawful sexual intercourse, etc.

Analysis:

According to fiscal year (FY) 2012 through FY2017 Sentencing Guidelines data, two offenders were convicted under § 18.2-49 for threatening, attempting or assisting an abduction. One of these offenders received a 12-month jail sentence, while the other offender did not receive an active term of incarceration to serve after sentencing. During the same six-year period, one offender was convicted under § 18.2-368 for placing or leaving his wife in a bawdy place for the purposes of prostitution or unlawful sexual intercourse. This individual received a one-year prison sentence.

Existing data do not contain sufficient detail to determine the number of cases that would be affected by the proposed expansion of these provisions.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of two existing felonies, the proposal may increase the 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 could result from enactment of the proposal. While the impact on prison bed space needs cannot be determined, any impact is likely to be small.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs. The number of new convictions resulting from the proposal cannot be estimated based on existing data. However, any impact is likely to be small.

Adult community corrections programs. 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. The impact on community corrections programs cannot be calculated. However, any impact on adult community corrections resources is likely to be small.

Virginia's sentencing guidelines. Felony convictions under § 18.2-49 and § 18.2-368 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 836 of the 2017 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.

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