



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 749 (Patron – Leftwich)

**LD#:** 18101525

**Date:** 12/21/2017

**Topic:** Abduction of minor for concubinage or prostitution

#### Fiscal Impact Summary:

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

- **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 §§ 18.2-48(iii) and 18.2-49(3), relating to the abduction of a minor for the purpose of concubinage or prostitution. Currently, under § 18.2-48(iii), the abduction of a child under 16 for the purpose of concubinage or prostitution is a Class 2 felony. The abduction of any person for prostitution, regardless of age, is also punishable as a Class 2 felony pursuant to § 18.2-48(iv). Moreover, according to § 18.2-49, assisting the abduction of or threatening to abduct any female under 16 for the aforementioned purposes is a Class 5 felony.

Under the proposal, §§ 18.2-48(iii) and 18.2-49(3) would be expanded to include the abduction, or assisting or threatening the abduction, of any minor. The proposal also explicitly states that the use of force, intimidation, or deception is not a necessary condition for the person to be convicted in violation of § 18.2-48(iii).

Pursuant to § 9.1-902, a violation of § 18.2-48(iii) is classified as a sexually violent offense and requires registration with the state's Sex Offender and Crimes against Minors Registry. Convictions under § 18.2-48(iv) do not necessitate registration. By expanding § 18.2-48(iii) to include the abduction of any minor for concubinage or prostitution, a subset of individuals currently convicted under § 18.2-48(iv) may be prosecuted under § 18.2-48(iii) and, subsequently, be required to register as sex offenders. Per § 18.2-472.1, the first violation for failing to register as a sex offender committed by an offender who is not defined as sexually violent is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. The first Registry violation committed by a sexually violent offender is punishable as a Class 6 felony; a second or subsequent Registry violation is a Class 5 felony.

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**Analysis:**

Existing data sources do not contain sufficient detail to estimate the number of instances that may be affected by the proposed modifications to §§ 18.2-48 and 18.2-49. However, affected individuals may be sentenced similarly to offenders convicted under existing provisions.

According to Sentencing Guidelines data for fiscal year (FY) 2012 through FY2017, there were no convictions under § 18.2-48(iii) for abduction of a child under 16 for the purpose of concubinage or prostitution. However, two offenders were convicted of a Class 5 felony under § 18.2-49 for assisting the abduction or threatening to abduct any female under 16 for the aforementioned purpose (as the primary, or most serious, offense) during this time period. Of these, one offender did not receive an active term of incarceration to serve after sentencing. The other received a local-responsible (jail) term of ten months.

General District Court Case Management System (CMS) data for fiscal year (FY) 2016 and FY2017 indicate that 324 offenders were convicted of a Class 1 misdemeanor under § 18.2-472.1 for a Registry violation. Of these offenders, roughly half (47.2%) did not receive an active term of incarceration to serve after sentencing. The median sentence length for the 52.8% who were given a local-responsible (jail) term was two months.

According to the Sentencing Guidelines database for FY2016 and FY2017, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 444 sentencing events during this time period. More than half (58.3%) of these offenders received a local-responsible (jail) term with a median sentence of six months. Another 20.7% did not receive an active term of incarceration to serve after sentencing. The remaining 21.0% were given state-responsible (prison) terms with a median sentence length of approximately 1.2 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of §§ 18.2-48(iii) and 18.2-49, the proposal may increase the number of convictions under this provision. As a result, the proposal may also increase the number of individuals required to register with the state's Sex Offender and Crimes against Minors Registry. In this way, the proposal may result in additional felony convictions for violations of Registry provisions. As a result, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data do not contain sufficient detail to estimate the number of additional felony convictions that may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs. However, 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 §§ 18.2-48(iii), 18.2-49, and 18.2-472.1 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.

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**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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