



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 95 (Patron – Miyares)

LD #: 18101485

Date: 12/07/2017

Topic: Female genital mutilation

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:**
None (\$0) **
- **Juvenile Detention Facilities:**
None (\$0) **

** 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 §§ 18.2-51.7 and 19.2-8 of the *Code of Virginia*, relating to female genital mutilation. Currently, any person who knowingly circumcises, excises or infibulates the labia majora, labia minora, or clitoris of another person under the age of 18 is guilty of a Class 1 misdemeanor. In addition, any parent, guardian, or other person legally responsible for a minor who consents to such an act or who knowingly removes or causes or permits the removal of a minor from the Commonwealth for the purposes of committing such an act is also guilty of a Class 1 misdemeanor. These offenses were established by the 2017 General Assembly, with an effective date of July 1, 2017. The proposal would increase the penalty for these offenses to a Class 6 felony, punishable by a term of imprisonment from one to five years.

Analysis:

Since § 18.2-51.7 became effective on July 1, 2017, existing databases available to the Commission do not yet contain information regarding convictions under this statute. However, cases affected by the proposal may be sentenced similarly to offenders convicted of unlawful wounding under § 18.2-51, which also carries a penalty of one to five years.

According to the fiscal year (FY) 2016 and FY2017 Sentencing Guidelines database, 809 offenders were convicted of a felony for unlawful wounding under § 18.2-51. This offense was the primary, or most serious, offense in 681 of the cases. Of these, 38.2% of these offenders were sentenced to state-responsible (prison) terms for which the median active sentence was 1.75 years. Another 36.7%

received local-responsible (jail) terms with a median sentence of six months. The remaining 25.1% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it elevates the penalties for certain misdemeanor offenses to Class 6 felonies, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, since § 18.2-51.7 just came into effect on July 1, 2017, existing databases available to the Commission do not yet contain information regarding convictions under this statute. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase the 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 additional offenders, the proposal may increase the need for adult community corrections resources. However, the potential impact on state and local community corrections programs cannot be determined.

Virginia's sentencing guidelines. As new felony offenses, convictions under § 18.2-51.7 would not be covered by the sentencing guidelines when one of these crimes is the primary (most serious) offense in a case. A conviction for such an offense, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the proposal would have no impact on direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal would have no impact on the bed space needs of juvenile detention facilities.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.