



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2299

(Patron – McGuire)

LD#: 19100614

Date: 12/18/2018

Topic: Prostitution and human trafficking

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
Cannot be determined, likely to be small**
- **Juvenile Detention Facilities:**
Cannot be determined, likely to be small**

**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 2 of the Acts of Assembly of 2018, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal modifies §§ 18.2-355, 18.2-356, 18.2-357 and 18.2-357.1 of the *Code of Virginia* to raise existing felony penalties for certain offenses related to prostitution and human trafficking. These offenses are currently either Class 3 felonies, with a statutory penalty range from 5 to 20 years or Class 4 felonies, with a statutory penalty range from 2 to 10 years. The proposal increases the penalty of a Class 3 felony to a Class 2 felony (statutory penalty range of 20 years to life imprisonment) for the following crimes if minors are involved: (i) pandering; (ii) receiving money for procuring a person for the purpose of prostitution, forced labor, or child pornography; (iii) receiving money from the earnings of a person engaged in prostitution; and (iv) commercial sex trafficking. The proposal increases the penalty of a Class 4 felony to a Class 3 felony (statutory penalty range of 5 to 20 years) for the same offenses that do not involve minors.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal years 2017 and 2018, there were six offenders convicted under §§ 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1 for prostitution and human trafficking crimes involving minors during the two-year period. For five offenders, the felony prostitution or human trafficking offense was the primary (most serious) offense at sentencing. One of these offenders (20%) received a 10-month local-responsible (jail) sentence, while the other four offenders (80%) received state-responsible (prison) sentences with a median sentence of approximately 4.3 years. Another offender, convicted of two counts of aggravated sexual battery (the primary offense) and two counts of sex trafficking of a minor (as an additional offense) was sentenced to serve fourteen years in prison.

During the same period there were 35 convictions under the same statutes for prostitution and human trafficking crimes not involving minors. For 29 offenders, the felony prostitution or human trafficking offense was the primary (most serious) offense at sentencing. Two of these offenders (6.9%) did not receive an active term of incarceration to serve after sentencing. The majority (51.7%) received a local responsible (jail) term with a median sentence of six months. The remaining (41.4%) received state-responsible (prison) terms for which the median sentence was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalties for existing felonies, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are insufficient to estimate the effect of the proposal on sentences for affected offenders. Therefore, the magnitude of the impact on prison beds cannot be quantified.

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

Adult community corrections programs. Because the proposal impacts individuals who are currently being supervised, the proposal should have little or no impact on adult community corrections programs.

Virginia's sentencing guidelines. Certain convictions under §§ 18.2-355 and 18.2-357 are currently covered by sentencing guidelines. No convictions under §§ 18.2-356 and 18.2-357.1 are covered by the sentencing guidelines as the primary (or most serious) offense. Such convictions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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 but is likely to be small.

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 but is likely to be small.

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 2 of the Acts of Assembly of 2018, Special Session I, 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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