



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2470

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Gilbert)

LD#: 19105990

Date: 1/31/2019

Topic: Prostitution and human trafficking

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **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 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 felony penalties and establish mandatory minimum terms for certain prostitution and human trafficking offenses involving minors under the age of 15. Currently, the offenses involving minors under the aforementioned sections are Class 3 felonies, with a statutory penalty range from 5 to 20 years. The proposal increases the penalty to a Class 2 felony (statutory penalty range of 20 years to life) and requires a mandatory minimum term of imprisonment of 25 years for the following crimes if minors under the age of 15 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) engaging in commercial sex trafficking.

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 of these offenders, the felony prostitution or human trafficking offense was the primary, or most serious, offense at sentencing. One of the offenders received a local-responsible (jail) sentence of ten months. The other four offenders received state-responsible (prison) sentences, for which the median sentence was 4.25 years.

Data are insufficient to determine the number of individuals who would be convicted of offenses involving minors under the age of 15 and therefore be subject to an enhanced felony with a mandatory minimum term of imprisonment of 25 years under the proposal.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing existing felony penalties and establishing mandatory minimum terms for the certain human trafficking and prostitution-related felonies involving minors less than 15 years of age, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of individuals who would be affected by the enactment of the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. The proposal is not expected to increase the need for local-responsible (jail) beds, since affected offenders would be required to serve a state-responsible (prison) term.

Adult community corrections resources. The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders affected by the proposal, as they will stay in prison longer prior to being released to the community.

Virginia's sentencing guidelines. Felony convictions under the above sections involving minors are not covered by the sentencing guidelines when the crime is the primary (most serious) offense in a case. A conviction for such an offense could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. Whenever a mandatory minimum term applies, guidelines preparers are instructed to replace any part of the guidelines range that falls below the mandatory minimum with the mandatory minimum term that is required by law. 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 quantified; however, any impact 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.

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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