

Department of Planning and Budget

2019 Fiscal Impact Statement

1. Bill Number: HB2586ER

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

2. Patron: Bell, Robert B.

3. Committee: Passed both houses.

4. Title: Prostitution and sex trafficking; offenses involving a minor; penalties.

5. Summary: Provides that any person who commits an act of aiding prostitution or illicit sexual intercourse or using a vehicle to promote prostitution or unlawful sexual intercourse, when such act involves a minor, is guilty of a Class 6 felony. Under current law, such acts are punishable as a Class 1 misdemeanor. The bill adds the two new felony offenses to (i) the definition of "violent felony" for the purposes of sentencing guidelines, (ii) the definition of barrier crimes for the purposes of background checks for employees or volunteers providing care to children or the elderly or disabled, (iii) the definition of predicate criminal acts for street gangs, (iv) the definition of racketeering activity under the Virginia Racketeer Influence and Corrupt Organization Act, (v) the list of violations that a multi-jurisdiction grand jury is responsible for investigating, and (vi) the list of offenses requiring registration in the Sex Offender and Crimes Against Minors Registry. The bill also adds felony prostitution and felony human trafficking offenses to the definition of "violent felony" for the purposes of sentencing guidelines. The bill also provides that each violation of commercial sex trafficking is a separate and distinct felony.

6. Budget Amendment Necessary: Yes, Item 391.

7. Fiscal Impact Estimates: Final (see Item 8 below).

8. Fiscal Implications: The proposed legislation increases the penalty for aiding prostitution or illicit sexual intercourse and for using vehicles to promote prostitution or unlawful sexual intercourse from a Class 1 misdemeanor to a Class 6 felony in cases in which the offender violates one of these provisions with a person under the age of 18. The bill also makes certain associations with or uses of a bawdy place, a Class 1 misdemeanor and makes aiding in prostitution, as specified, a Class 1 misdemeanor and makes any adult who violates the above provision with a person under the age of 18, a Class 6 felony. The proposal also specifies that each violation constitutes a separate and distinct felony.

The proposed legislation also adds the above newly-defined felony offenses to those that require offenders who commit these felonies on or after July, 2019 to register with Virginia Offender Registry. Currently, the first Sex Offender Registry violation committed by 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 bill also expands the definition of a “predicate criminal act” associated with gang activity and “racketeering activity” under Virginia’s Racketeer Influenced and Corrupt Organization Act (RICO) provisions to include the new felony offenses. The proposed legislation also adds the new felony offenses to the definition of barrier crimes for the purposes of background checks for employees or volunteers providing care to children or the elderly or disabled and to the list of violations that a multi-jurisdiction grand jury is responsible for investigating. Finally, the bill expands the definition of violent offenses for the purposes of Virginia’s sentencing guidelines to include the two new felony offenses. According to the Virginia Criminal Sentencing Commission, the bill expands the applicability of sentencing enhancements that are incorporated into the guidelines. Therefore, offenders who have prior convictions for violent felony offenses, as specified, would receive enhancements on the guidelines that increase the recommended sentences for those offenders.

Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison. However, there is not sufficient data to estimate the impact of the proposed legislation on state-responsible (prison) bed space. In such cases, Chapter 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, there is not enough information available to reliably estimate how many additional inmates in jail could result from this proposed legislation. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails’ operating costs, e.g. correctional officers. The state’s share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board’s most recent Jail Cost Report (November 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections; Local and regional jails; and Courts.

10. Technical Amendment Necessary: No

11. Other Comments: The Conference Report provides \$50,000 (Item 391 #3c) reflecting the estimated bed space impact resulting from this legislation.