Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1524

(Patron –Delaney)

LD#: 20103888 **Date:** 12/30/2019

Topic: Prostitution-related crimes

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 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000.

Summary of Proposed Legislation:

The proposal expands several prostitution-related offenses defined in § 18.2-346 (prostitution/ commercial sexual conduct), § 18.2-348 (aiding prostitution or illicit sexual intercourse), and § 18.2-356 (receiving money for procuring a person for prostitution) to include additional types of sexual contact. Specifically, the proposal adds the touching of the intimate parts of another person with the intent to sexually arouse or gratify or allowing another person to touch one's own intimate parts with the intent to sexually arouse or gratify to the list of conduct that, when done for money or its equivalent, constitutes prostitution.

Prostitution and the solicitation of prostitution are Class 1 misdemeanors (§ 18.2-346); however, it is a Class 6 felony to solicit prostitution from a minor 16 years of age or older and a Class 5 felony to solicit prostitution from a minor under the age of 16. Aiding in prostitution or illicit sexual intercourse (§ 18.2-348) is also a Class 1 misdemeanor; however, if an adult aids or assists in procuring a person under the age of 18 for prostitution, it is a Class 6 felony. Receiving money for procuring a person for prostitution or a sex act (§ 18.2-356) is a Class 4 felony or, if the violation involves a minor under the age of 18, a Class 3 felony. By expanding § 18.2-346 to cover additional behaviors, the proposal potentially expands the applicability of felony offenses defined in § 18.2-357.1 (commercial sex trafficking), which is based on the definition of prostitution in § 18.2-346. Violation of § 18.2-357.1 is punishable as a Class 5 felony or, if the offender uses force, intimidation or deception, a Class 4 felony; if the offense involves a minor under the age of 18, it is a Class 3 felony.

Analysis:

Existing data sources are insufficient to estimate the number of additional convictions that may result if § 18.2-346, § 18.2-348, and § 18.2-356 are expanded to cover additional behaviors. By expanding these provisions, the proposal could also result in additional convictions for commercial sex trafficking.

While the number of offenders who may be affected by the proposal cannot be determined, such individuals may be sentenced similarly to those who are currently convicted under existing provisions (see table below).

Offenders Convicted of Select Offenses, FY2018-FY2019

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Prostitution or solicitation of prostitution (§ 18.2-346)[1]	365	77.3%	22.7%	1 month	NA	NA
Solicit prostitution from a minor age 16 or 17 (§ 18.2-346(B))[2]	1	0.0%	0.0%	NA	100.0%	4 years
Solicit prostitution from a minor under age 16 (§ 18.2-346(B))[2]	1	0.0%	0.0%	NA	100.0%	1 year
Aiding prostitution or illicit sexual intercourse (§ 18.2-348)[1]	18	55.6%	44.4%	3.5 months	NA	NA
Aid in procuring a person under the age of 18 (§ 18.2-348)[2]	*Enacted July 1, 2019. No data available.*					
Receiving money for procuring a person for prostitution or sex act (§ 18.2-356)[2]	0	NA	NA	NA	NA	NA
Receiving money for procuring a person under the age of 18 for prostitution or sex act (§ 18.2-356)[2]	0	NA	NA	NA	NA	NA
Commercial sex trafficking (§ 18.2-357.1(A))[2]	17	17.6%	17.6%	3 months	64.8%	3.3 years
Commercial sex trafficking through force, intimidation or deception (§ 18.2-357.1(B))[2]	1	0.0%	100.0%	9 months	0.0%	NA
Commercial sex trafficking of a person under the age of 18 (§ 18.2-357.1(C))[2]	3	0.0%	0.0%	NA	100.0%	2.3 years

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.
[1]Source: Supreme Court of Virginia - General District Court Case Management System, FY2018-FY2019
[2]Source: Supreme Court of Virginia - Circuit Court Case Management System, FY2018-FY2019

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands the applicability of several prostitution-related offenses. The proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the impact of the proposal on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the impact on local-responsible (jail) bed space needs cannot be determined.

Adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

Virginia's sentencing 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.

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 854 of the 2019 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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