



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 557 ***(Patron – Brewer)***

LD#: 20103236

Date: 12/13/2019

Topic: Carnal knowledge of defendants on bond

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **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 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 amends § 18.2-64.2 to increase the penalty for carnal knowledge of a defendant on bond by an owner or employee of a bail bond company from a Class 1 misdemeanor to a Class 6 felony. The misdemeanor offense was established by the 2013 General Assembly with an effective date of July 1, 2013.

Currently, the Class 6 felony defined in § 18.2-64.2 only includes the carnal knowledge of an inmate, parolee, probationer, detainee, pretrial defendant or posttrial offenders by certain corrections officials.

Analysis:

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2014 through FY2019, a misdemeanor violation of § 18.2-64.2 was the primary (most serious) offense at sentencing in two cases. Both offenders were sentenced to local-responsible (jail) terms. One offender (convicted of two counts of this offense) was sentenced to serve a total of 18 months in jail. The second offender, convicted of one count of this offense and two counts of solicitation of prostitution (also a Class 1 misdemeanor), was sentenced to serve a total of 30 months in jail; in this case, however, the solicitation convictions accounted for the majority of the offender's effective time. No misdemeanor convictions under § 18.2-64.2 were found in General District Court CMS data.

During the same six-year period, 23 offenders were convicted of felony carnal knowledge of an inmate, etc., under § 18.2-64.2 as their primary offense at sentencing. While the most of these offenders (56.5%) did not receive an active term of incarceration to serve after sentencing, 34.8% of the offenders were sentenced to local-responsible (jail) terms with a median sentence of 4.5 months. The remaining two offenders (8.7%) were sentenced to state-responsible (prison) terms of 1.3 years and 1.5 years, respectively.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the penalty for an existing offense from a Class 1 misdemeanor to a Class 6 felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Although the impact on prison bed space needs cannot be determined, the impact, if any, is likely to be small.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs. However, any impact is likely to be small.

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. While the impact cannot be calculated, any impact on adult community corrections resources is likely to be small.

Virginia's sentencing guidelines. Convictions under § 18.2-64.2 are not covered by the sentencing guidelines as the primary (most serious) offense. However, convictions under this statute 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 (DJJ), the proposal will not increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase 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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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