

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB724ER

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|-----------------|--------------------------|--------------|--------------------------|------------|-------------------------------------|-----------|
| 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: McClellan

3. Committee: Passed both House and Senate.

4. Title: Misdemeanor sexual offenses where the victim is a minor; statute of limitations.

5. Summary: The proposed legislation provides that the prosecution of certain Class 1 misdemeanors where the victim was a minor at the time of the offense must be commenced no later than one year after the victim reaches the age of majority, unless the alleged offender of such offense was an adult and more than three years older than the victim at the time of the offense, in which instance such prosecution shall be commenced no later than five years after the victim reaches majority. The proposal affects a number of Class 1 misdemeanor sexual offenses, including: (i) Carnal knowledge of an inmate, parolee, probationer, detainee, or pretrial or post-trial offender; (ii) sexual battery; (iii) infected sexual battery; (iv) the sexual abuse of a child under 15 years of age; (v) attempted rape, forcible sodomy, object sexual penetration, aggravated sexual battery, and sexual battery; and (vi) the penetration of mouth of child with lascivious intent. Currently, a prosecution of such misdemeanors where the victim is a minor at the time of the offense is to commence no later than one year after the victim reaches majority, irrespective of the status of the offender.

6. Budget Amendment Necessary: Yes, Item 402.

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

8. Fiscal Implications: Currently, under §18.2-67.5:1, a person convicted of a third misdemeanor offense within ten years involving sexual battery, attempted sexual battery, consensual intercourse with a child, indecent exposure, or peeping is guilty of Class 6 felony. By expanding the length of time during which an offender may be prosecuted for a violation of certain misdemeanor sexual crimes against minors, the proposed bill may increase the number of offenders who may be convicted of Class 6 felony under §18.2-67.5:1.

According to the Virginia Criminal Sentencing Commission (VCSC), this proposal could also increase the number of offenders ultimately convicted of a Class 6 felony under § 18.2-67.5:1 for a third or subsequent misdemeanor offense.

According to the FIS, FY 2018 and FY 2019 data from the Circuit Court Case Management System (CMS), found 19 sentencing events where this crime was the most serious offense. Ten of the 19 offenders received a state-responsible (prison) term with a median sentence of 1.8 years. The remaining 9 offenders were given a local-responsible (jail) term with a median

sentence of six months. Because there is not enough information available to reliably estimate the increase in jail population as a result of this proposal, the VCSC assigned a minimum fiscal impact of \$50,000 for the introduced bill.

However, any increase in jail population will increase costs to the state. The Commonwealth currently 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 2019), the estimated total state support for local jails averaged \$34.07 per inmate, per day in FY 2018.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Courts, Commonwealth's Attorneys, local correctional facilities.

10. Technical Amendment Necessary: No.

11. Other Comments: None.