

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** SB724ES1

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

**2. Patron:** McClellan

**3. Committee:** Senate Finance and Appropriations Committee

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

**5. Summary:** The proposed legislation establishes that prosecution of specified 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 offender was an adult. 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.

The engrossed bill includes an enactment clause stating that the provisions of the proposed legislation shall not become effective unless an appropriation effectuating its purposes is included in a general appropriation act passed in 2020 by the General Assembly that become law.

**6. Budget Amendment Necessary:** Yes, Item 402.

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

**8. Fiscal Implications:** According to the Virginia Criminal Sentencing Commission, because the proposed legislation increases the statute of limitations for prosecuting certain misdemeanor violations, contingent upon the age of the victim and the age of the offender at the time of the offense, the proposal may increase the number of offenders ultimately convicted of a felony under § 18.2-67.5:1 of the *Code of Virginia* for a third or subsequent misdemeanor offense. Data provided by the Virginia Criminal Sentencing Commission indicates that a felony violation of § 18.2-67.5:1 was the primary, or most serious, offense in 19 sentencing events in FY 2018 and FY 2019. Furthermore, ten of the offenders (52.6 percent) received a state-responsible (prison) term with a median sentence of 1.8 years. The remaining nine offenders (47.4 percent) were given a local-responsible (jail) term for which the median sentence was six months. However, the Virginia Criminal Sentencing Commission also indicates that data are not sufficiently detailed to estimate how many

additional felony convictions may result if the proposed legislation is enacted. Therefore, the magnitude of the impact cannot be quantified, and per Chapter 854 of the 2019 Acts of Assembly, the Virginia Criminal Sentencing Commission has assigned a minimum fiscal impact of \$50,000 to the bill.

**9. Specific Agency or Political Subdivisions Affected:** Department of Corrections; Commonwealth's Attorneys; law-enforcement agencies; Courts; local jails.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** This bill is similar to HB298H1.