



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 724 **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – McClellan)***

LD#: 20108198

Date: 02/14/2020

Topic: Sexual crimes against minors; limitation of prosecutions

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 proposed legislation amends § 19.2-8 of the *Code of Virginia*, relating to the limitation of prosecutions for certain offenses. Under the proposal, the prosecution of a misdemeanor under the enumerated sections of the *Code* 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 and more than three years older than the victim at the time of the offense, in which instance such prosecution must be commenced no later than five years after the victim reaches majority. The proposal affects a number of Class 1 misdemeanor sexual offenses, including sexual battery, infected sexual battery, and sexual abuse of a child aged 13 or 14.

Currently, § 19.2-8 requires that a prosecution for one of the listed misdemeanors must be commenced no later than one year after the victim reaches majority, regardless of the age of the offender. This modification was made by the 2016 General Assembly. Essentially, the proposal expands the time period during which an individual may be prosecuted for one of the enumerated offenses, depending on the age of the victim and the age of the offender at the time of the offense.

Under § 18.2-67.5:1 of current *Code*, an offender 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 a Class 6 felony.

Analysis:

By expanding the length of time during which an offender may be prosecuted for a violation of certain misdemeanor sexual crimes against minors, the proposal may increase the number of offenders ultimately convicted of a felony under § 18.2-67.5:1 for a third or subsequent misdemeanor offense. According to fiscal year (FY) 2018 and FY2019 data from the Circuit Court Case Management System (CMS), a felony violation of § 18.2-67.5:1 was the primary, or most serious, offense in 19 sentencing events. Ten of the offenders (52.6%) received a state-responsible (prison) term with a median sentence of 1.8 years. The remaining nine offenders (47.4%) were given a local-responsible (jail) term for which the median sentence was six months.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal may increase the number of offenders ultimately convicted of a felony under § 18.2-67.5:1 for a third or subsequent misdemeanor offense. As a result, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate how many additional felony convictions may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

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

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-67.5:1 are not covered by the sentencing guidelines as the primary (most serious) offense in a case; however, a conviction under this provision may 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. The Department of Juvenile Justice (DJJ) reports the impact of this proposal on bed space needs for juvenile correctional centers cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that this proposal's impact on detention center bed space needs 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.