



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

### House Bill No. 252 (Patron – Watts)

LD#: 20102314

Date: 12/27/2019

Topic: Rendering children sexually abused

#### 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:**  
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.

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#### Summary of Proposed Legislation:

The proposal adds § 18.2-371.01 to the *Code of Virginia*. As proposed, it would be a Class 4 felony for any person 18 years of age or older who has custody of a minor, allows a minor to reside in his or her residence, or is in a position of trust or authority over a minor to willfully contribute to, encourage, or cause any act, omission or condition that results in any unlawful sexual act upon the minor. The offender must be more than three years older than the minor for the felony provisions to apply.

Currently, under § 18.2-371(i), it is a Class 1 misdemeanor for any person 18 years of age or older to willfully contribute to, encourage, or cause any act, omission or condition that renders a child delinquent, in need of services, in need of supervision, or abused or neglected as defined in § 16.1-228. Under § 16.1-228, the definition of an “abused or neglected child” includes a child whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law.

The proposal would create a new felony for creating or allowing an environment that leads to an unlawful sexual act upon a child. If the offender participated in the sexual act upon the minor, other sections related to sexual abuse, sexual conduct, prostitution, child abuse and rape could also apply.

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#### Analysis:

According to fiscal year (FY) 2018 and FY2019 data from the Juvenile & Domestic Relations Court Case Management System (CMS), 1,736 offenders were convicted of a Class 1 misdemeanor under § 18.2-

371(i) for contributing to the delinquency, etc., of a minor. Approximately one-third (32.2%) of these offenders received a local-responsible (jail) term for which the median sentence was one month. The remaining 67.8% of offenders did not receive an active term of incarceration to serve after sentencing. It is unknown how many of these offenders (or other offenders) may have contributed to, encouraged or caused any condition that resulted in an unlawful sexual act upon a minor child and, therefore, would have been subject to the proposed penalty had it been in effect at the time the offense occurred.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it adds a new felony to the *Code*, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Thus, the magnitude of the impact on prison beds cannot be quantified.

**Local adult correctional facilities.** Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** 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.** Convictions under the proposed § 18.2-371.01 would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such convictions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice, the proposal is not expected to impact direct care (juvenile correctional center or alternative commitment placement) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal is not expected to impact the bed space needs of juvenile detention facilities.

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**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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