

Department of Planning and Budget

2022 Fiscal Impact Statement

1. Bill Number: HB1150

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Mundon King

3. Committee: Courts of Justice

4. Title: Commercial sex trafficking, prostitution, etc.; mistake of age defense.

5. Summary: The proposed legislation provides that a defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the defendant's belief that the victim was an adult shall not be raised as a defense in a prosecution for certain crimes related to commercial sex trafficking and prostitution involving a minor victim.

6. Budget Amendment Necessary: Yes, Item 404.

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

8. Fiscal Implications: According to the Virginia Sentencing Commission, there is insufficient data to determine the number of cases, if any, that have resulted in not guilty verdicts, reduced charges, or lower sentences based on a defense asserting the defendant's ignorance of the victim's age, the victim's misrepresentation of his age, or the defendant's belief that the victim was an adult. Furthermore, the General Assembly recently adopted legislation allowing the judge to ascertain punishment following a jury trial unless the accused has requested that the jury ascertain punishment or he was found guilty of capital murder (Chapter 43 of the Acts of Assembly of 2020, Special Session I, effective July 1, 2021). This legislation may increase the number of jury trials requested by defendants. However, sufficient data does not exist to estimate the fiscal impact on the resources of the criminal justice system.

By limiting defense strategies, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, available data do not provide sufficient detail to estimate the number of additional felony convictions or the number of convictions for more serious offenses that may result under the proposal compared to that under present law. Similarly, the data do not provide sufficient detail to estimate possible changes in sentencing patterns for cases affected by the proposal. Therefore, the fiscal impact cannot be determined. Accordingly, due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 552, 2021 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

The proposed legislation may also increase the local-responsible jail bed space needs. However, there is not enough information available to reliably estimate the increase in jail population as a result of this proposal. Nevertheless, any increase in jail population would 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 and \$12.00 a day for each state-responsible prisoner. It also funds a considerable 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 2021), the estimated total state support for local jails averaged \$37.58 per inmate, per day in FY 2020.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and regional jails, law enforcement agencies, Courts, Commonwealth's Attorneys, and Public Defenders Offices.

10. Technical Amendment Necessary: No.

11. Other Comments: None.