



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1150 (Patrons – Mundon King, Maldonado, et al.)

LD#: 22102730

Date: 02/02/2022

Topic: Defense in prosecution for certain prostitution and sex trafficking offenses

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
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 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposed legislation amends several sections of the *Code* relating to possible defenses to prostitution and commercial sex trafficking offenses involving minor victims. The bill specifies that, in a prosecution of an adult accused of committing one of the specified offenses with a person under the age of 18, 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 shall not be raised as a defense.

Analysis:

Existing court data are insufficient to identify 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.

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. Changes to potential methods of adjudication, as well as the proposed restriction on defense strategies and the potential for modifications in prosecutorial charging decisions, may have an impact on the number of agreements between parties on how to proceed in these cases.

Impact of Proposed Legislation:

State adult correctional facilities. 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 magnitude of the impact cannot be determined.

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

Adult community corrections programs. The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders affected by the proposal, as they may stay in prison longer prior to being released to the community.

Virginia's sentencing guidelines. Offenses under the affected *Code* sections involving minor victims are not covered by the Sentencing Guidelines when they are the primary, or most serious, offense at sentencing. However, such convictions may augment the Guidelines recommendation (as additional offenses) if the most serious offense at sentencing is covered by the Guidelines. No adjustment to the guidelines is necessary under the proposal.

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

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 552 of the 2021 Acts of Assembly, Special Session I, 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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