

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB1699

House of Origin Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. Patron: Cherry

3. Committee: Committee for Courts of Justice

4. Title: Buying or selling of minors; exceptions; penalties.

5. Summary: Creates a Class 5 felony for any person who offers money or other valuable thing to another for the purpose of purchasing or otherwise obtaining custody or control of a minor and thereafter does any substantial act in furtherance of such offer of purchase or obtaining custody or control of such minor. The bill also creates a Class 5 felony for any parent, legal guardian, or other person having custody or control of a minor who receives any money or other valuable thing for or on account of selling or otherwise transferring custody or control of such minor or who offers to sell or otherwise transfer custody or control of such minor. The bill creates exceptions for any person entering into a surrogacy contract or seeking to adopt a child or place his child for adoption pursuant to relevant law.

A violation of this provision constitutes a separate and distinct offense. If the acts or activities violating this section also violate another provision of law, a prosecution under this section does not prohibit or bar any prosecution or proceeding under such other provision or the imposition of any penalties.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: The proposal makes it a Class 5 felony to offer money or other thing of value for the purchase of a minor or to obtain custody or control of a minor. The offender must commit a substantial act in furtherance of the offer for the felony to apply. The bill also creates a Class 5 felony for any parent, legal guardian or other person having custody or control of a minor who receives money or other thing of value for selling a minor or for transferring custody or control of a minor. Any violation of this proposal will constitute a separate and distinct offense and prosecution under this section will not prohibit prosecution under any other applicable provision of law.

The proposal creates two new felonies that are separate and distinct offenses. Acts or activities that violate other provisions of law may be prosecuted in addition to the new felonies under the proposal. Because the proposed bill proposes new felony offenses for

which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified. 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 2, 2022 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

Additionally, there is not enough information available to reliably estimate the increase in jail population as a result of this proposal. However, any increase in jail population will 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 \$15.00 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 2022), the estimated total state support for local jails averaged \$40.39 per inmate, per day in FY 2021.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, local and regional jails, state and local law enforcement, Courts, Commonwealth's Attorneys' Office, Public Defender's Office.

10. Technical Amendment Necessary: No.

11. Other Comments: None.