

Department of Planning and Budget 2023 Fiscal Impact Statement

1. Bill Number: HB1699ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Cherry

3. Committee: Passed both houses.

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

5. Summary: The proposal adds § 18.2-356.1, which 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 proposal 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 section will constitute a separate and distinct offense and prosecution under this section will not prohibit prosecution under any other applicable provision of law. Exceptions to the provisions of this proposal are made for (i) surrogacy contracts; (ii) seeking to adopt a child or place a child for adoption; or (iii) a person with a legitimate interest in such minor.

6. Budget Amendment Necessary: Yes. Item 404.

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

8. Fiscal Implications: According to the Virginia Criminal Sentencing Commission (VCSC), because the proposal creates two new felonies for which imprisonment is authorized, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data are insufficient to estimate the number of additional convictions that may result from enactment of the proposal.

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 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

There is not enough information available to reliably estimate the increase in local-responsible (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. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's

share of these costs 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.