

Department of Planning and Budget
2023 Fiscal Impact Statement
REVISED 3/8/2023

1. Bill Number: HB1892 ER

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☐ In Committee ☐ Substitute ☒ Enrolled

2. Patron: Ballard

3. Committee: Passed both Houses

4. Title: Abduction of a minor; penalty.

5. Summary: Current law defines several offenses in Article 3 (Kidnapping and Related Offenses) of Chapter 4 of Title 18.2. Penalties for offenses defined in Article 3 range from a Class 3 misdemeanor for violation of a custody or visitation court order to several Class 2 felonies, including abduction with intent to defile. Certain abduction offenses in Article 3 are specific to minors, such as abducting a minor for purposes of manufacturing child pornography, which is a Class 2 felony defined in § 18.2-48(v). Abduction for which no punishment is otherwise prescribed is a Class 5 felony.

The bill amends §18.2-47 (C) and provides that with certain exceptions, as defined under §18.2-47(D), abduction of a minor is punishable as a Class 2 felony. The bill also clarifies subsection D to include a family or household member, as defined in § 16.1-228, who has been ordered custody or visitation of the child.

6. Budget Amendment Necessary: Yes, Item 404

7. Fiscal Impact Estimates: Final. See Item 8 below.

8. Fiscal Implications: This bill increases the penalty for certain kidnapping offenses to a Class 2 Felony, which is punishable by imprisonment for 20 years to life and a fine of up to \$100,000.

According to the Virginia Criminal Sentencing Commission, data is available on the number of felony kidnapping convictions under the various sections of the Code of Virginia. However, because victim age is not recorded in the Court Case Management Systems (CMS), existing data sources do not contain sufficient detail to estimate the number of offenders who would be subject to a Class 2 felony under the proposal who are not already covered by a Class 2 felony defined in current law. Data sources are also not sufficient to determine the number of offenders who would be subject to the lesser penalties imposed

under § 18.2-47(D). Therefore, the magnitude of the impact on prison beds 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.

According to the Virginia Criminal Sentencing Commission, this bill may also increase local-responsible (jail) bed space needs. However, there is not enough information available to reliably estimate the impact on jail or prison bed space needs as a result of this proposal. The Commonwealth currently pays the localities \$15.00 a day for each state-responsible prisoner held in a jail.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections, Local and regional jails, Commonwealth Attorneys, Public Defender Offices, courts

10. Technical Amendment Necessary: No

11. Other Comments: None