



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 1284

(Patrons – Hackworth, Newman and Obenshain)

LD #: 23103751

Date: 01/09/2023

Topic: Unlawful abortions

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**  
Cannot be determined, likely to be small

- **Juvenile Correctional Centers:**  
Cannot be determined \*\*\*
- **Juvenile Detention Facilities:**  
Cannot be determined \*\*\*

\*\* 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 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.

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 proposal repeals §§ 18.71.1 through 18.2-74.1, 18.2-76 and 32.1-92.2 relating to producing an abortion or miscarriage. The proposal amends §§ 9.1-151, 16.1-241, 18.2-71, 18.2-75, 32.1-133.1 and 54.1-2969. The proposal provides that no abortion is authorized or shall be performed on an unborn child except when (i) a physician determines, in reasonable medical judgment, that a medical emergency exists, defined in the bill such that the abortion is performed to save the life of the mother, or (ii) the probable gestational age of the unborn child is 20 weeks or less and the pregnancy is the result of rape or incest in which an official police report has been filed alleging the offense of rape or incest. Such abortions must be performed by a licensed physician in a hospital licensed by the Virginia Department of Health or operated by the Department of Behavioral Health and Developmental Services. The proposal provides that any person who performs an unlawful abortion is guilty of a Class 4 felony under § 18.2-71.

Currently, under §§ 18.2-71 and 18.2-71.1, unlawfully producing an abortion or performing partial birth infanticide are Class 4 felonies. It is a Class 3 misdemeanor under § 18.2-76.1 to encourage, promote or advertise any prohibited abortion procedures. Violations related to consent for abortions are punishable as Class 3 misdemeanors under § 16.1-241.

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**Analysis:**

According to data from the General District Court and Circuit Court Case Management Systems (CMS) for fiscal year (FY) 2017 through FY2022, there were no convictions under the existing abortion-related statutes of §§ 18.2-71, 18.2-71.1, 18.2-76.1 or 16.1-241 during that time period.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The proposal potentially expands the applicability of existing felony offenses for which imprisonment is authorized. In this way, the proposal could 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 that may result from enactment of the proposal. Although the magnitude of the impact on prison beds cannot be quantified, the impact, if any, is likely to be small.

**Local adult correctional facilities.** Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be determined. The impact, if any, is likely to be small.

**Adult community corrections resources.** The impact, if any, on state community corrections resources and local community-based probation services cannot be estimated.

**Virginia's Sentencing Guidelines.** The Sentencing Guidelines do not currently cover abortion law violations as the primary (most serious) offense in a sentencing event. However, a conviction for an abortion-related crime (as an additional offense) may augment the Guidelines recommendation if the most serious offense at sentencing is covered by the Guidelines. No adjustment to the Guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

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

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**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.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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