

Department of Planning and Budget 2024 Session Fiscal Impact Statement

1. Bill Number: HB633

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Cherry

3. Committee: Court of Justice

4. Title: Labor trafficking; forced labor or service; penalties.

5. Summary: This legislation provides that any person who knowingly provides or obtains the labor or services of a person by means of (i) force, threats of force, physical restraint, or threats of physical restraint to that person or another person; (ii) serious harm, as defined in the bill, or threats of serious harm to that person or another person; (iii) the abuse or threatened abuse of law or legal process, as defined in the bill; or (iv) any scheme, plan, or pattern intended to cause the person to believe that if that person did not perform such labor or services that person or another person would suffer serious harm or physical restraint is guilty of labor trafficking. The bill also provides that any person who knowingly benefits from participation in a venture that has engaged in labor trafficking is guilty of receiving money from labor trafficking. The bill provides that a violation of labor trafficking or receiving money from labor trafficking is punishable as a Class 4 felony; however, any adult who commits an act of labor trafficking or receiving money from labor trafficking with a person under the age of 18 is guilty of a Class 3 felony. The bill also creates a civil cause of action against individuals who engage in labor trafficking or who receive money from labor trafficking and adds labor trafficking and receiving money from labor trafficking to provisions of the Code defining racketeering and as a barrier crime from caring for children or the elderly or disabled, among other provisions listed in the bill.

6. Budget Amendment Necessary: Yes, Item 390.

7. Fiscal Impact Estimates: Preliminary, see Item 8 below.

8. Fiscal Implications: According to the Virginia Sentencing Commission, current data sources do not contain sufficient detail to estimate the number of cases that will be affected by the proposal. However, individuals convicted of labor trafficking and forced labor or services may be sentenced similarly to those convicted under the § 18.2-356, receiving money for procuring forced labor or services and § 18.2-513, the Virginia RICO Act. According to fiscal year (FY) 2022 and FY 2023 Circuit Court Case Management System (CMS) data, 21 offenders were convicted of racketeering under the Virginia RICO Act as their primary (most serious) offense at sentencing. One defendant was sentenced to a local-responsible (jail) term of five months. The twenty remaining offenders were sentenced to state-responsible (prison)

terms for which the median sentence was 4.0 years. During the same period, 33 offenders were convicted under § 18.2- 356 for labor trafficking/forced labor. In these cases, however, this was not the most serious offense in the sentencing event. In 12 of the cases, the most serious offense was the distribution of drugs and, in the other 21 cases, the most serious offense was a violation of the Virginia RICO Act. By adding Class 3 and Class 4 felonies, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing data do not provide sufficient detail to estimate the number of offenders who would be affected by the proposal; therefore, the magnitude of the impact on prison bed space needs cannot be determined. 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 1, 2023 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

The bill may also increase local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined. However, any increase in jail population will increase costs to the state. The Commonwealth currently pays the localities \$5.00 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 2023), the estimated total state support for local jails averaged \$45.76 per inmate, per day in FY 2022.

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

10. Technical Amendment Necessary: No.

11. Other Comments: None.