



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 2425 (Patron – Griffin)

LD #: 25100579

Date: 12/11/2024

Topic: Third or subsequent abuse of a child

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: None (\$0) ** • Juvenile Detention Facilities: None (\$0) ** <p>**Provided by the Department of Juvenile Justice</p>
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* 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 2024, 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 adds § 18.2-369.1 to the *Code* to make it a Class 6 felony for any adult who maintains a custodial or supervisory relationship over a child younger than the age of 15 to knowingly and intentionally, on three or more occasions during a 30-day period, 1) commit an assault and battery against the child in violation of §§ 18.2-57 or 18.2-57.2, 2) cause the child to be abused or neglected as defined by § 16.1-228, or 3) engage in any conduct that places the child in reasonable fear of death or bodily injury. Under the proposal, prosecution may proceed regardless of whether the conduct was reported to law enforcement or the defendant has been charged with or convicted of the alleged violations.¹

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected by the proposal. However, individuals convicted of the proposed felony may be sentenced similarly to offenders convicted under similar existing provisions.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2019 through FY2024, 1,539 offenders were convicted of a Class 6 felony under § 18.2-371.1 (gross, wanton, or reckless care for a child) during the six-year period. This was the primary, or most serious, offense in 837 of the cases. Of these defendants, 307 (36.7%) did not receive any active term of incarceration, 377 (45.0%) received a local-responsible (jail) sentence with a median sentence of 3.0 months, and 153 (18.3%) received a state-responsible (prison) sentence with a median sentence of 1.5 years.

¹ The proposed felony would be eligible for the enhanced sentence credits specified in § 53.1-202.3, whereby offenders serve a minimum of 67% of the sentence ordered by the court.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new felony offense, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Available data are insufficient, however, to identify the number of defendants who may be convicted of the proposed felony or to estimate the number of new state-responsible sentences that may result from enactment of the proposal. Thus, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs, but the magnitude of the impact cannot be quantified.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be estimated.

Virginia's Sentencing Guidelines. As a new felony, convictions for the proposed offense initially would not be covered by the Sentencing Guidelines as the primary (or most serious) offense. Such convictions, however, could augment the Guidelines recommendation as additional offenses if the most serious offense at sentencing is covered by the Guidelines. The proposed felony would not be defined as violent under § 17.1-805(C) for Guidelines purposes. No immediate adjustment to the Guidelines would be necessary under the proposal. If the proposal is enacted, the Sentencing Commission in the future would conduct analyses to determine the feasibility of adding the new felony to the Guidelines system.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

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

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 2024, 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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