



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### Senate Bill 1446 (Patron - Cifers)

LD#: 25103943

Date: 01/08/2025

Topic: Human smuggling

#### Fiscal Impact Summary:

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

- **Juvenile Direct Care:**  
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 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.

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#### Summary of Proposed Legislation:

The proposal adds § 18.2-48.2 and defines new felony offenses related to human smuggling. Under the proposal, it would be a Class 6 felony for any person, with the intent to obtain a pecuniary benefit and to evade the immigration laws of the United States, to use any means of conveyance (e.g., motor vehicle, aircraft, watercraft, etc.) to transport another person into or through Virginia with the knowledge that such person is likely being transported to be exploited for financial gain. If such smuggling (i) creates a substantial likelihood that the individual being smuggled suffers seriously bodily injury or death, (ii) involves a child younger than age 18, or (iii) involves the smuggler possessing a firearm, this offense becomes a Class 3 felony. If, as a direct result of the smuggling, the individual being smuggled (i) becomes a victim of human trafficking, commercial sex trafficking, sexual assault, or aggravated sexual assault or (ii) suffers serious bodily injury or death, this offense becomes a Class 2 felony.<sup>1</sup> A violation of the proposed section would constitute a separate and distinct offense and would not preclude prosecution under any other statute.

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#### Analysis:

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<sup>1</sup> Under current law, any felony kidnapping offense under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2 is ineligible for the enhanced sentence credits specified in § 53.1-202.3; therefore, individuals convicted of the proposed offenses must serve a minimum of 85% of the sentence ordered by the court.

Existing data sources do not contain sufficient detail to estimate the number of additional felony convictions that would arise from the proposal. However, individuals convicted of this offense may be sentenced similarly to those who are convicted under existing provisions. See table below.

**Offenders Convicted of Select Offenses, FY2019-FY2024**

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Threat by letter, communication, or electronic message (extortion; § 18.2-60(A,1)) – Class 6 felony	254	34.6%	35.8%	7.0 mos.	29.5%	1.5 yrs.
Malicious wounding (§ 18.2-51) – Class 3 felony	1,626	6.6%	4.8%	6.0 mos.	88.6%	4.0 yrs.
Aggravated malicious wounding (§ 18.2-51.2(A)) – Class 2 felony	363	2.5%	0.8%	6.0 mos.	96.7%	14.0 yrs.
Abduction to gain pecuniary benefit (§ 18.2-48(i)) – Class 2 felony	51	N/A	N/A	N/A	100.0%	13.0 yrs.
Abduction with intent to defile (§ 18.2-48(ii)) – Class 2 felony	29	N/A	3.4%	6.0 mos.	96.6%	12.0 yrs.

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense at sentencing.

Source: Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2019-FY2024

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By creating new felony offenses for which imprisonment is authorized, the proposal may increase the future 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 felonies 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.** Convictions for the proposed offenses 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 felonies 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 felonies to the Guidelines system.

**Juvenile direct care.** 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 reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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**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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