



## Fiscal Impact Statement for Proposed Legislation

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### Virginia Criminal Sentencing Commission

#### Senate Bill No. 227 (Patron – Obenshain)

**LD#:** 22103620

**Date:** 01/07/2022

**Topic:** Misdemeanor offenses against minors; limitation of prosecutions

#### Fiscal Impact Summary:

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

- **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 552 of the Acts of Assembly of 2021, 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 proposed legislation amends § 19.2-8 of the *Code of Virginia*, relating to the limitation of prosecutions for certain offenses. Under the proposal, prosecution of a misdemeanor defined in clause (ii) of § 18.2-371 (consensual intercourse with a minor age 15 or more) must be commenced no later than one year after the victim reaches the age of majority. However, if the offender is an adult and more than three years older than the victim at the time of the offense, prosecution may be commenced up to five years after the victim reaches majority.

Under current law, § 19.2-8 requires that a prosecution for an offense under § 18.2-371 be commenced no later than one year from the date the offense was committed. Essentially, the proposal establishes that the statute of limitations begins after the victim reaches majority and not from the date of the offense. The proposal then expands the time period during which an individual may be prosecuted for a violation of clause (ii) of § 18.2-371.

Under § 18.2-67.5:1 of current *Code*, an offender convicted of a third misdemeanor offense involving sexual battery, attempted sexual battery, consensual intercourse with a child, indecent exposure, or peeping within ten years is guilty of a Class 6 felony.

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#### Analysis:

By extending the length of time during which an offender may be prosecuted for a violation of certain misdemeanor sexual crimes against minors, the proposal may increase the number of offenders ultimately convicted of a felony for a third or subsequent misdemeanor offense under § 18.2-67.5:1. According to fiscal year (FY) 2020 and FY2021 data from the Circuit Court Case Management System (CMS), a felony violation of § 18.2-67.5:1 was the primary, or most serious, offense in 28 sentencing events. Eleven offenders (39.3%) received a state-responsible (prison) term with a median sentence of 2.0 years. Another fifteen offenders (53.6%) were given a local-responsible (jail) term for which the median sentence was six months. Two offenders (7.1%) did not receive an active term of incarceration to serve after sentencing.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it extends the period during which prosecution may be sought for certain crimes, the proposal may increase the number of offenders ultimately convicted of a felony under § 18.2-67.5:1 for a third or subsequent misdemeanor offense. As a result, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate how many additional felony convictions may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

**Local adult correctional facilities.** Similarly, the magnitude of the impact on local-responsible (jail) bed space needs cannot be quantified.

**Adult community corrections resources.** 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 quantified.

**Virginia's sentencing guidelines.** Felony convictions under § 18.2-67.5:1 are not covered by the sentencing guidelines as the primary (most serious) offense in a case; however, a conviction under this provision 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.** The Department of Juvenile Justice (DJJ) reports the impact of this proposal on bed space needs for juvenile correctional centers cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that this proposal's impact on detention center bed space needs cannot be determined.

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**Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

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