



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1483 (Patron – Dunnavant)

LD #: 23103893

Date: 01/18/2023

Topic: Unlawful abortions

Fiscal Impact Summary:

<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> • Juvenile Correctional Centers: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <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 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 § 18.2-74 related to lawful abortions after the second trimester of pregnancy and adds § 18.2-74.3. Other sections of the *Code*, §§ 16.1-241, 18.2-73, 18.2-74.1, 18.2-75 and 18.2-76, are amended. As proposed, it is lawful for a physician to perform an abortion or cause a miscarriage during the second trimester of pregnancy and prior to viability if the abortion is performed in the hospital. Viability is defined as when the gestational age of the unborn child is (i) 24 weeks or more or (ii) in the estimation of the physician and two consulting physicians, at least 22 weeks. It would be unlawful to perform an abortion during the third trimester of pregnancy, except to save the life of the mother. Under the proposal, regardless of the duration of the pregnancy, life support must be available and used when there is any evidence of viability of a child that has been completely born. Unlawfully producing an abortion or miscarriage would be a Class 4 felony under § 18.2-71 of the *Code*.

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.

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.

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 but is likely to be negligible.

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.

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.