

Legislative Impact Analysis for the 2012 General Assembly



March 19, 2012

Code of Virginia § 30-19.1:4

- **The Virginia Criminal Sentencing Commission must prepare a fiscal impact statement for any bill that would result in a net increase in the population of offenders housed in state adult correctional facilities (prisons)**
- **Law became effective July 1, 2000**
- **Effective July 1, 2002, the impact statement must:**
 - **Include an analysis of the impact on local and regional jails as well as state and local community corrections programs; and**
 - **Detail any necessary adjustments to the sentencing guidelines**

Code of Virginia § 30-19.1:4

- **The Commission must estimate the increase in annual operating costs for prison facilities that would result if the proposal is enacted**
 - **A six-year projection is required**
 - **The highest single-year increase in operating costs is identified**
 - **This amount must be printed on the face of the bill**
- **If the Commission does not have sufficient information to project the impact, § 30-19.1:4 states that the words "Cannot be determined" must be printed on the face of the bill**

Code of Virginia § 30-19.1:4

- **For each law enacted that results in a net increase in the prison population, a one-year appropriation must be made**
 - **Appropriation is equal to the highest single-year increase in operating costs during the six years following enactment**

- **Appropriations made pursuant to § 30-19.1:4 are deposited into the Corrections Special Reserve Fund**

Code of Virginia § 30-19.1:4

- **The Department of Juvenile Justice (DJJ) prepares a fiscal impact estimate for any bill that would result in a net increase in the juvenile population committed to the state**
- **DJJ provides this information to the Commission and a combined statement is submitted to the General Assembly**

HB 749: Assault of a Campus Police Officer

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$200,311 (7 beds)
- **Local Adult Correctional Facilities:**
\$57,098 (6 beds)
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Additional Provisions in the Appropriations Act

In 2009, the Appropriations Act passed by the General Assembly included new language pertaining to fiscal impact statements

Item 48 of Chapter 781 of the 2009 Acts of Assembly

For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

Additional Provisions in the Appropriations Act

Item 49 of Chapter 890 of the 2011 Acts of Assembly

For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

**This requirement remained
in the budget adopted by
the 2011 General Assembly**

2012 SESSION

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HOUSE BILL NO. 752
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee for Courts of Justice
on February 27, 2012)

(Patron Prior to Substitute—Delegate Cline)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-51.6, relating to strangulation of another; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-51.6 as follows:

§ 18.2-51.6. Strangulation of another; penalty.

Any person who impedes the blood circulation or respiration of another person by willfully, knowingly, intentionally and without consent applying pressure to the person's neck, resulting in wounding or bodily injury is guilty of strangulation, a Class 6 felony. It shall be an affirmative defense that the defendant performed such conduct for a valid medical or dental purpose.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 890 of the Acts of Assembly of 2011 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.

SENATE

SUBSTITUTE

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 890 of the Acts of Assembly of 2011 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.

Code of Virginia § 30-19.1:4

- **The requirement for an impact statement includes, but is not limited to, proposals that:**
 - **Add new crimes for which imprisonment is authorized;**
 - **Increase the periods of imprisonment authorized for existing crimes;**
 - **Raise the classification of a crime from a misdemeanor to a felony;**
 - **Impose mandatory terms of imprisonment; or**
 - **Modify the law governing release of prisoners**

Legislative Impact Analysis

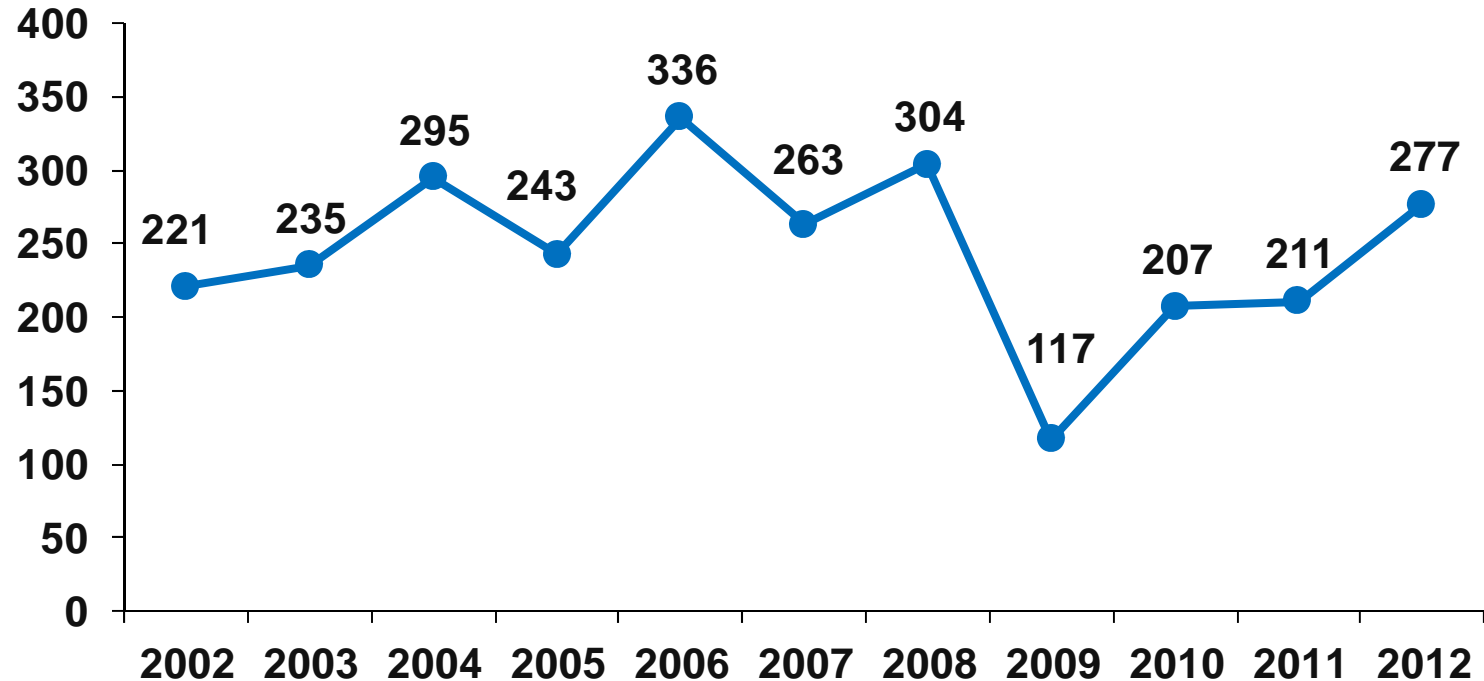
- **Additional impact analyses may be conducted at the request of:**
 - **House Appropriations staff**
 - **Senate Finance staff**
 - **Department of Planning and Budget staff**
 - **Office of the Secretary of Public Safety**

Legislative Impact Analysis

- **The necessary appropriation is calculated by:**
 - **Estimating the net increase in the prison population likely to result from the proposal during the six years following enactment**
 - **Identifying the highest single-year population increase**
 - **Multiplying that figure by the cost of holding a prison inmate for a year (operating costs, excluding capital costs)**

- **For FY2011, the annual operating cost per prison inmate was \$27,688**
 - **This figure is provided each year by the Department of Planning and Budget**

Impact Analyses Completed for 2002-2012 Sessions of the General Assembly



Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are proposed or adopted

2012 General Assembly – 277 Impact Analyses Completed

Type of Legislative Change	Percent
Expansion or Clarification of Crime	63.2%
New Crime	40.8%
Mandatory Minimum	17.7%
Misdemeanor to Felony	17.3%
Increase Felony Penalty	7.2%
Other	15.2%

Percentages do not add to 100%, since proposed legislation can involve multiple types of changes. Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are proposed or adopted

Most Common Types of Offenses in Proposed Legislation

- **Sex Offenders and Offenses (71 analyses)**
- **Fraud/Larceny (29 analyses)**
- **Drugs (26 analyses)**
- **Assault (25 analyses)**
- **Child Abuse/Neglect (19 analyses)**
- **Driving While Intoxicated (16 analyses)**
- **Gangs and Gang Offenses (15 analyses)**
- **Law Enforcement Officers (10 analyses)**

Bills with Fiscal Impacts Passed by the 2012 General Assembly

- **HB718: Expanding § 16.1-269.1(C), relating to the transfer of juveniles to circuit court, to include certain third or subsequent drug distribution offenses (\$50,000)**
 - Includes third or subsequent violations of § § 18.2-248, 18.2-248.03 (methamphetamine), and 18.2-248.5 (anabolic steroids) if the adjudication occurred after the juvenile was at least 14 years old

**This bill was adopted with funds
appropriated per § 30-19.1:4**

Bills with Fiscal Impacts Passed by the 2012 General Assembly

- **SB273/HB508**: Expanding several drug crimes to include cannabimimetic agents and adding certain “bath salts” to the list of Schedule I controlled substances (\$50,000)
- **SB159/HB968**: Establishing a mandatory minimum of 3 years for 2nd sale, etc., of a Schedule I/II drug and increasing the existing mandatory minimum for 3rd or subsequent sale, etc., of a Schedule I/II drug from 5 to 10 years (\$5,512,531)

**These bills were adopted with funds
appropriated per § 30-19.1:4**

Bills with Fiscal Impacts Passed by the 2012 General Assembly

- **SB436/HB973**: Creating a mandatory minimum term of life for forcible rape, sodomy, and object sexual penetration of a child younger than 13 if it is alleged in the indictment that the offender was 18 years of age or older at the time of the offense (\$50,000)
- **HB963**: Solicitation of child pornography to gain entry into a group engaged in trading or sharing child pornography punishable by 5 to 20 years imprisonment (\$50,000)
- **HB964**: Creating a Class 6 felony for displaying a sexually-related grooming video to a minor with the intent to entice, etc., the child to engage in sexual behavior by a person 18 or older (\$50,000)

**These bills were adopted with funds
appropriated per § 30-19.1:4**

Bills with Fiscal Impacts Passed by the 2012 General Assembly

- **HB546**: Adding § 18.2-355 (taking, detaining, etc., a person for prostitution or consenting thereto) and § 18.2-357 (receiving money from the earnings of a prostitute) to the definition of “predicate criminal acts” for gang offenses (\$3,358)
- **SB459/HB752**: Creating a new Class 6 felony for impeding the blood circulation or respiration of another by knowingly, intentionally, and unlawfully applying pressure to the neck of another, resulting in wounding or bodily injury (\$50,000)

**These bills were adopted with funds
appropriated per § 30-19.1:4**

Bills with Fiscal Impacts Passed by the 2012 General Assembly

- **HB1140: Adding Carisoprodol to the list of Schedule IV controlled substances (\$50,000)**
 - The Woodrum language was not contained on the face of the bill, but funds were appropriated in the House budget

- **SB503/HB876: Creating new felonies relating to the motor vehicle fuels sales tax in certain transportation districts (\$50,000)**
 - Funds were appropriated in the preliminary Senate version of the budget bill but not the House version

**These bills were adopted with funds
appropriated per § 30-19.1:4**

