



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2836

(Patron – Sherwood)

Date Submitted: 1/18/2005

LD #: 05-6357220

Topic: Sex offender and crimes against minors registration requirements

Proposed Change:

The proposal expands the sex offender registration requirements under § 19.2-902 for offenders entering the Commonwealth from another state. Under the proposal, an offender who is required to register in another state as a sex offender or for crimes against minors will also be required to register in the Commonwealth; registration would be required even if offenders convicted of the same offense in the Commonwealth are not required to register. Current *Code* regarding offenders coming to Virginia from out of state specifies that only offenders who are convicted of similar crimes listed under § 19.2-902 are required to register in Virginia.

The proposed amendment to § 9.1-905 extends sex offender registration requirements to offenders visiting the Commonwealth for 30 days or more. Currently, only nonresidents entering the Commonwealth for employment, to carry on a vocation or as a student are required to register.

Pursuant to § 18.2-472.1: “any person subject to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, other than a person convicted of a sexually violent offense, who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 1 misdemeanor. However, any person convicted of a sexually violent offense, as defined in § 9.1-902, who knowingly fails to register or reregister, or who knowingly provides materially false information to the Sex Offender and Crimes Against Minors Registry is guilty of a Class 6 felony.”

Analysis:

Based on the fiscal year (FY) 2003 and FY2004 Local Inmate Data System (LIDS), 94 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor for failing to register, while 168 were convicted of a Class 6 felony for failing to register for a sexually violent offender. Of those convicted of the misdemeanor offense, 89% received local-responsible (jail) terms, with a median sentence of approximately two months. Another 2% of offenders, convicted of additional charges, received state-responsible (prison) terms, with a median sentence of nearly 14 years. Of those convicted of the felony offense, 69% received local-responsible (jail) terms, with a median sentence of 6 months, and nearly 21% were sentenced to a state-responsible (prison) term, with a median sentence of 1.7 years.

The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

Background Sentencing Information

	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Local Responsible Sentence	Median State Responsible Sentence
Misdemeanor: Fail to register for other than sexually violent offense (§ 18.2-472.1)	94	8.5%	89.4%	2.1%	2 months	13.5 yrs.
Felony: Fail to register for sexually violent offense (§ 18.2-472.1)	168	10.7%	68.5%	20.8%	6 months	1.7 yrs.

Note: Includes only convictions of those held in the local jail pretrial or sentenced to serve time post-trial.

Data Source: FY2003 and FY2004 Local Inmate Data System (LIDS) database

Impact of Proposed Legislation:

The proposed legislation may increase the need for state-responsible (prison) and/or local-responsible (jail) bed space; however, the impact cannot be quantified. The number of additional nonresidents who will enter the Commonwealth, fail to register, and be arrested and prosecuted cannot be quantified from existing databases.

Virginia’s sentencing guidelines do not cover convictions under § 18.2-472.1 for failing to register as a sex offender. No adjustment to the guidelines would be necessary under the proposal.

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

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