



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2836 Amendment in the Nature of a Substitute (Patrons Prior to Substitute – Sherwood et al.)

Date Submitted: 2/7/2005

LD #: 05-5095220

Topic: Sex offender and crimes against minors registration requirements

Proposed Change:

The proposal expands the sex offender registration requirements under § 9.1-902 in several ways. First, to commit or attempt to commit a murder of a child under the age of 15 would require registration with the Sex Offender and Crimes Against Minors Registry (SOR). Second, a sexual battery, as defined by § 18.2-67.4 where the victim is under the age of six, would be defined as a “sexually violent offense.” And finally, if a crime requires registration in registry similar to SOR under the laws of the political subdivision where the offender was convicted, that offender is required to register with SOR. Currently, sexual battery is an offense requiring registration if the victim is a minor, physically helpless or mentally incapacitated, or the crime had been elevated to a felony as a third conviction; out-of-state convictions only require SOR registration if the offense is similar to those requiring registration 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. The proposed § 9.1-907 explicitly allows local law-enforcement officers to enforce the SOR provisions.

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,

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.

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.

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.

sor05_5095