



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1066

(Patron – Watts)

LD #: 06-4137544

Date: 12/8/2005

Topic: Restricting registered sex offenders whose victims were children

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **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

Summary of Proposed Legislation:

The proposal amends § 9.1-909 and adds § 18.2-370.02 relating to restrictions for registered sex offenders whose victims were children.

Currently, § 9.1-909 provides the mechanism for relief from the registration or reregistration with the Sex Offender and Crimes Against Minors Registry (SOR) process. Under the proposal, there will be no relief for a sexually violent offender (SVO) whose victim was under the age of 15; an SVO would still have a lifetime requirement of reregistering with SOR, however, with a successful petition for relief under § 9.1-909, reregistration could be done on a semiannual basis instead of a monthly basis.

Under the proposed § 18.2-370.02, two new felonies are defined and applicability of a third crime is expanded.

- In subsections A and B, the two new felonies restrict a person who is required to register with SOR for a crime involving a victim under the age of 15 from (1) residing in the same dwelling as an unrelated child (less than 15) and (2) entering the property of any public or private school, including kindergarten, child day center or daycare facility. Both crimes are Class 6 felonies, carrying a mandatory minimum term of six months imprisonment, and require probation with home electronic monitoring for one year following release.
- In subsection C, a parent or guardian who allows a child to reside with a person, who is not related to the child and is known to have been convicted of an offense requiring registration with SOR, is guilty of abuse and neglect of a child. Abuse and neglect (§ 18.2-371.1) is a Class 6 felony unless the health or life of the child receives serious injury, then it becomes a Class 4 felony.

Analysis:

As of August 24, 2005, the Sex Offender and Crimes Against Minors Registry (SOR) contains the names of 11,950 offenders living in Virginia. Most (82%) are registered as sexually violent offenders (defined in § 9.1-902), for whom failing to comply with Registry requirements is a Class 6 felony. For the remainder (18%), failing to comply with the Registry as required is a Class 1 misdemeanor.

Based on Pre/Post-Sentence Investigation (PSI) database for fiscal years (FY) 2002 and FY2003 there were 74 convictions of abuse and neglect of children under § 18.2-371.1 that did not involve serious injury. Of these, 31% were sentenced to a state-responsible (prison) term with a median sentence of two years, 30% was given a local-responsible (jail) sentence, and 39% received no active term of incarceration.

Impact of Proposed Legislation:

Adult state correctional facilities. By creating two new felonies and broadening the applicability of two other felonies, the proposed legislation may increase the need for state-responsible (prison) bed space by the Commonwealth. However, existing databases do not provide sufficient information to estimate the number of convictions that would be likely to occur under the proposal. Therefore, the magnitude of the increase cannot be quantified.

Adult local correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but the number of additional beds cannot be determined.

Adult community corrections programs. The proposed legislation may increase the adult community corrections programs needs, but the impact cannot be determined.

Virginia's sentencing guidelines. Abuse and neglect of a child when there is serious injury is an offense covered by Virginia's sentencing guidelines as the primary (most serious) offense at conviction. The other three crimes affected by the proposal (abuse and neglect of a child without serious injury and the two new felonies) would not be covered by Virginia's sentencing guidelines as the primary offense in a case; however, convictions under the proposed statute may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), due to changes in § 9.1-902 in the 2005 session of the General Assembly, the proposal may have an effect on juvenile correctional center (JCC) bed space needs. Although, not expected to be large, the magnitude of the impact cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that due to changes in § 9.1-902 in the 2005 session of the General Assembly, the proposal may have an effect on juvenile detention facilities bed space needs. Although, not expected to be large, the magnitude of the impact cannot be determined.

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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.