



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 561

(Patron – Amundson)

LD #: 06-1127212

Date: 11/30/2005

Topic: Offenses committed by sex offenders while not properly registered

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$10,199 (.43 bed)
- **Local Adult Correctional Facilities:**
-\$456 (.05 bed)
- **Adult Community Corrections Programs:**
None (\$0)

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

Summary of Proposed Legislation:

The proposal amends § 18.2-472.1 to add two felonies related to Sex Offender and Crimes Against Minors Registry (SOR) violations coupled with offenses that would require registration. An SOR violation consists of the failure to register or reregister with the Registry within a prescribed time frame, or to provide materially false information to the Registry. Under the proposed subsection B, an SOR violation coupled with the commission of an offense requiring registration is a separate and distinct Class 6 felony. Under the proposed subsection C, an SOR violation coupled with the commission of an offense that requires registration as a sexually violent offender is a separate and distinct Class 5 felony.

Currently, both precursor elements (the SOR violation and the offense that would require registration) are crimes, but the combination of these elements is not an enumerated violation.

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 data from the Local Inmate Data System (LIDS) for the five fiscal years (FY) 2001 through FY2005 that had been verified with Court Automated Information System (CAIS) or circuit court clerk records, four offenders were charged with both a violation of SOR and a new crime that would require registration with SOR. Each of these offenders was found to have been charged with both elements of the proposal as well as convicted of a crime related to the original charge. Three of the four offenders were charged and convicted of the felony SOR violation, while the fourth was charged and convicted of the misdemeanor version of the crime. All of the offenders were charged with crimes that would require registration as a sexually violent offender (one forcible sodomy and three aggravated sexual batteries); however, two were convicted of a reduced crime (one was convicted of indecent liberties, a

crime that is also defined as sexually violent, while the other was convicted of misdemeanor sexual battery).

Impact of Proposed Legislation:

Adult state correctional facilities. Because the proposed legislation adds two new crimes when elements of two crimes co-exist there will be an impact on the state-responsible (prison) bed space needs; the measurable increase is estimated to be .43 bed.

Adult local correctional facilities. The proposal will reduce local-responsible (jail) bed space needs; the measurable decrease is estimated to be -.05 bed.

Adult community corrections programs. The number of offenders requiring adult community corrections programs should not increase; however, the timing of when those resources may be needed could be delayed.

Virginia's sentencing guidelines. The new crime defined by the proposal would not be covered by Virginia's sentencing guidelines as the primary (or most serious) 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 is \$10,199 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.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on §53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2005.
2. New cases representing state-responsible sentences were based on the admissions forecast as approved by the Secretary's Committee on Inmate Forecasting in July 2005.
3. To
4. Cost per prison bed was assumed to be \$23,966 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
5. Cost per jail bed was based on The Compensation Board's FY2004 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$26.03 per day or \$9,506 per year. The local cost was calculated by using the daily expenditure cost of \$54.37 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in

\$23.99 per day or \$8,763 per year. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.***

Assumptions relating to sentence lengths

1. The impact of the proposed legislation, which would be effective on July 1, 2006, is phased in to account for case processing time.
2. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2004. For sex offenses, this rate was 11.05%.
3. To gauge the impact for proposed new crimes, stand-in sentences were randomly drawn from the sentences of persons convicted for an appropriate substitute crime:
 - a. Offenders sentenced under the current Class 6 felony provisions of § 18.2-472.1 provided stand-in sentences for misdemeanants that would become eligible for the new Class 6 felony under the proposed § 18.2-472.1.
 - b. Offenders sentenced under the sexual assault statutes with a Class 5 felony provided stand-in sentences for the Class 5 felons that would become eligible for the new Class 5 felony under the proposed § 18.2-472.1.

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