



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 344

(Patron – Obenshain)

LD#: 06-9815782

Date: 1/13/2006

Topic: Restrict contact with street gangs as a condition of bond or suspended sentence

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 19.2-123 to require, as a condition of release on bond, that an offender avoid all contact with any member of a criminal street gang. Amendments to § 19.2-303 would require that the court, as a condition of suspending a sentence for violation of § 18.2-46.2 or 18.2-46.3, order the offender to have no contact with a member of a criminal street gang. In other cases, not in direct violation of a statute related to gang activity, the judge may also order the same gang contact restriction.

Analysis:

Based on fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, a total of 25 offenders held pre- or post-trial in jail were convicted of gang-related crimes under §§ 18.2-46.2 or 18.2-46.3.

In seven of the 25 cases, offenders were convicted under § 18.2-46.3 for recruiting juveniles to become members of a street gang, a Class 6 felony. Nearly all (86%) received a state-responsible (prison) term (median sentence of two years).

In 12 of the 25 cases, offenders were convicted under § 18.2-46.2 for participation in a criminal act to benefit the street gang, a Class 5 felony. Most (83%) were sentenced to prison (median sentence of nearly three years).

In the remaining six of the 25 cases, offenders were convicted under § 18.2-46.2 for participation in a criminal act to benefit a street gang that has juvenile members, a Class 4 felony. A majority (67%) were committed to prison with a median sentence of 4.3 years. The other 33% received no active term of incarceration.

Based on fiscal year (FY) 2002 and 2004 Probation Violation data, the courts, as a special condition of probation, restrict offenders contact with victims, other offenders and from traveling into crime prone

areas. Probations that were revoked for violating specific conditions limiting contact with others accounted for 47 (1%) of the 4286 special conditions cited; the median sentence was a local responsible (jail) sentence of 3 months. None were on probation for a gang related offense.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation should not have an impact on the bed space needs of the Commonwealth. While the databases available to the Commission are insufficiently detailed to confirm when special conditions of suspended sentences include no contact with a gang member, the courts currently limit offenders' contacts in the community. Therefore, there should be no new felony convictions or suspended sentence violations that accrue due to the proposal and no impact on state-responsible (prison) beds.

Local adult correctional facilities. Since existing sanctioning practices limit offenders' contacts in the community, the proposal should not have an impact on local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal should not result in additional offenders placed on community supervision (or lengthier supervision periods for offenders already in the community), but the level of supervision may increase to monitor offenders' contacts with gang members.

Virginia's sentencing guidelines. Felony probation violations with no new law violations are covered by the sentencing guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 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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