



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 524
Engrossed
(Patron Prior to Engrossment – Newman)

LD#: 06-1126252

Date: 2/10/2006

Topic: Drug-free daycare and kindergarten zones

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

Summary of Proposed Legislation:

The proposal amends § 18.2-255.2 to expand the types of property for which a 1,000 foot drug-free zone applies to include kindergartens and clearly marked licensed child day center as defined in § 63.2-100.

Currently, under §18.2-255.2, the sale or distribution of controlled substances, imitations, or marijuana upon school property, a school bus or bus stop, a community center or public library, a state facility, or on public property within 1,000 feet of such locations, is a felony punishable by a one to five-year term of imprisonment. Violation constitutes a separate and distinct felony. A second or subsequent conviction involving a Schedule I, II, or III controlled substance or more than one-half ounce of marijuana is subject to a mandatory minimum term of imprisonment of one year. However, if the offender proves that he sold such a controlled substance or marijuana only as an accommodation to another person, and not with intent to profit thereby or to induce the recipient to become addicted to the substance, he is guilty of a Class 1 misdemeanor.

Analysis:

According to fiscal years (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, there were 56 persons convicted under §18.2-255.2 and held in jail either pre- or post-conviction.

- Forty-three of these offenders were convicted under the ordinary (first offense) felony provisions. More than a third (35%) were sentenced to a state-responsible (prison) term, with a median sentence of three years. Nearly half (49%) were sentenced to a local-responsible (jail) term, and the remainder (16%) were given no active term of incarceration.
- Three were sentenced for a second or subsequent offense; none of the sentences exceeded the mandatory minimum term of one-year.
- The remaining ten were convicted under the misdemeanor provisions involving sale of marijuana for accommodation. Nearly all (90%) of the misdemeanants were sentenced to a local-responsible (jail) term with a median sentence of two months.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the types of property for which a 1,000 foot drug-free zone applies, the proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth. Two felony crimes are affected, but the number of additional convictions under the expanded §18.2-255.2 cannot be determined.

Local adult correctional facilities. The expanded §18.2-255.2 affects three crimes that may have an impact on local-responsible (jail) bed space needs; however, the magnitude of the increase cannot be quantified.

Adult community corrections programs. The potential impact on adult community corrections programs cannot be determined.

Virginia's sentencing guidelines. Convictions under §18.2-255.2 are covered by Virginia's sentencing guidelines as the primary (most serious) offense at conviction. 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 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 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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