



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 578

Amendment in the Nature of a Substitute

(Patron – McDougle)

LD#: 06-4877820

Date: 1/26/2006

Topic: Presumptive denial of bail when charged with certain sex offenses

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
\$2,605,967 (274 beds)
- **Adult Community Corrections Programs:**
None (\$0)

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

Summary of Proposed Legislation:

The proposal amends § 19.2-120 to expand the offenses for which judicial officers shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public. The amendment affects certain sex offenses. Currently, for a person charged with an offense listed in § 18.2-67.5:2, the presumptive denial of bail is only required if the person has previously been convicted of another crime from among those listed. The proposal eliminates the prior conviction requirements for those crimes found in subsections B3 (aggravated sexual battery in violation of § 18.2-67.3) and B6 (taking indecent liberties with a child in violation of §§ 18.2-370 and 18.2-370.1).

Analysis:

According to Fiscal Years (FY) 2002 and 2003 Pre/Post-Sentence Investigation (PSI) data, there were 359 convictions for aggravated sexual battery under § 18.2-67.3 for whom the presumptive denial of bail provisions of § 19.2-120 do not currently apply. The median pretrial length of stay for these offenders was 14 days.

Based on the same two years of PSI data, there were 239 convictions for indecent liberties under §§ 18.2-370 and 18.2-370.1 for whom the presumptive denial of bail provisions do not currently apply. The median pretrial length of stay for these offenders was two days.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the amount of time a person serves pretrial, the proposal will reduce the need for state-responsible (prison) beds. This reduced need for prison beds is estimated to be 114 beds by FY2012, for a savings to the state of \$2,743,726.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY07	FY08	FY09	FY10	FY11	FY12
-32	-58	-77	-94	-105	-114

Local adult correctional facilities. This proposal has partially offsetting elements when evaluating the impact on local-responsible (jail) bed space needs. The proposal increases the pretrial length of stay for certain offenders, while reducing the post-trial for those sentenced to a local-responsible (jail) term. The combined impact increased the statewide need for jail beds by 274 by FY2012; this represents a cost to the state of \$2,381,046 and to localities of \$2,194,940.

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY07	FY08	FY09	FY10	FY11	FY12
177	226	243	254	261	274

Adult community corrections programs. The proposal will have no impact on adult community corrections programs.

Virginia's sentencing guidelines. The proposal will not require a change to Virginia's sentencing guidelines.

Juvenile correctional centers. The proposal will not affect the Department of Juvenile Justice's (DJJ) juvenile correctional centers (JCC).

Juvenile detention facilities. The proposal will not have an impact on juvenile detention facilities.

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 estimate the number of offenders that would be affected by the expanded § 9.1-902, the number of convictions for the misdemeanor SOR provisions were adjusted by the ratio of the number of convictions estimated under the proposed § 18.2-67.5:1 to the number of convictions for crimes requiring registration (but not as a sexually violent offender).
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 treated as affecting all cases committed on or after that date.
2. The bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Post-trial prison 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%. Post-trial jail release dates were estimated based on the average rates at which felons housed in local jails were earning sentence credits in FY2003; this rate was 10.3%. Time spent in

jail pretrial was subtracted from the time the offender was to satisfy under both the current and proposed § 19.2-120.

3. To gauge the impact of presumptive denial of bail, the bed-space impact was derived by estimating the difference between expected pretrial release dates under current law and under the proposal. For current law, the PSI records the amount of time spent pretrial; to estimate the proposed law, the pretrial time was calculated from the date of arrest through the date of sentencing.

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