



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1923
Enrolled
(Patron Prior to Enrollment – Griffith)

LD#: Enrolled

Date: 2/21/2007

Topic: Sex Offender Registry to include persons found not guilty by reason of insanity

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

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

Summary of Proposed Legislation:

The proposal requires persons found not guilty by reason of insanity of crimes defined by § 9.1-902 to register and reregister with the Sex Offender and Crimes against Minors Registry (SOR). In 2006, the General Assembly amended the penalties for failing to register or re-register as required. For offenders convicted of a “sexually violent offense,” violation of registration requirements is a Class 6 felony for the first conviction and a Class 5 felony for any second or subsequent conviction (§ 18.2-482.1). For other offenders who are required to register, violation is a Class 1 misdemeanor for the first conviction and a Class 6 felony for any second or subsequent conviction.

Analysis:

According to a 2006 report from the Joint Commission on Health Care, there were 222 “not guilty by reason of insanity” acquittees held in a state hospital at the end of FY2004. Furthermore, the Department of Mental Health, Mental Retardation and Substance Abuse Services estimates that there are, on average, 35 “not guilty by reason of insanity” acquittals each year (*Guidelines for the Management of Individuals Found Not Guilty by Reason of Insanity*, May 2003). The number of acquittals for offenses defined by § 9.1-902 could not be determined from sources available.

As of December 15, 2006, the Sex Offender and Crimes against Minors Registry (SOR) contained the names of 13,180 offenders living in Virginia. Most (80%) are registered as sexually violent offenders (as defined in § 9.1-902).

According to calendar year (CY) 2004 and CY2005 Pre-Sentence Investigation (PSI) data, there were 97 offenders convicted of a Class 6 felony for failing to register as a sexually violent offender. Based on the CY2004 and CY2005 Local Inmate Data System (LIDS), there were 132 offenders convicted of a Class 1 misdemeanor for failing to register for any other sex offense.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the population of those who must register, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be identified. While the magnitude of the impact cannot be determined, it is expected to be small.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs; however the magnitude of the impact is expected to be small.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified. The impact, however, is expected to be small.

Virginia's sentencing guidelines. No adjustment to Virginia's sentencing 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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