



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2175

Amendment in the Nature of a Substitute (Patron Prior to Substitute – BaCote)

LD#: 07-7817222 (REVISED)

Date: 2/2/2007

Topic: Offenses prohibiting proximity to children

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 expands the list of premises included in proximity restrictions for offenders convicted of specified crimes. The proposal amends § 18.2-370.2 (relating to loitering restrictions) to include child day programs, as well as publicly-operated recreation centers and community centers that serve children.

The proposal increases the protections from prosecution found in §§ 18.2-370.3 (relating to residence restrictions) and 18.2-370.4 (relating to work or volunteer restrictions). In § 18.2-370.3, the person convicted of specified crimes is protected from prosecution if certain, otherwise prohibited, premises are established after the offender had been convicted of the crime; the proposal adds publicly-operated recreations centers and community centers serving children to that list. Under § 18.2-370.4, the employer (or procurer of a volunteer) of a person convicted of specified crimes is protected from civil liability unless they had actual knowledge that such person had been convicted of a prohibited offense; the proposal adds public recreation and community centers to the list of premises for which the protection would apply.

The proposal also modifies § 18.2-10 to explicitly authorize the court to impose the proximity restrictions specified in §§ 18.2-370.2, 18.2-370.3 and 18.2-37.4 in addition to any other penalty provided by law. Currently, this explicit authorization has been made for the provisions of § 18.2-370.2.

The 2006 General Assembly added §§ 18.2-370.3 (residential restrictions) and 18.2-370.4 (work and volunteer activity restrictions) to the *Code of Virginia*, and created additional restrictions to loitering in proximity of children (§18.2-370.2).

Analysis:

No available criminal justice database contains up-to-date information on the crimes affected by the proposal. Two of the affected statutes (§§18.2-370.3 and 18.2-370.4) were added by the 2006 General Assembly and § 18.2-370.2 was amended substantially.

There were no convictions under the former § 18.2-370.2 found in either the CY2004-CY2005 Pre/Post-Sentence Investigation (PSI) database or the CY2004-CY2005 Local Inmate Data System (LIDS).

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of existing Class 6 felony provisions, 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 estimated; therefore, the impact of the proposal on prison bed space needs cannot be determined.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, it may increase the need for adult community corrections resources. The potential impact on community corrections programs cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under §§ 18.2-370.2, 18.2-370.3, and 18.2-370.4 are not covered by the sentencing guidelines as the primary (or most serious) offense in a case; however, convictions for these crimes may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be 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.