



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2404

Amendment in the Nature of a Substitute

(Patron Prior to Substitute – Athey)

LD#: 07-7820220

Date: 1/22/2007

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 repeals § 18.2-370.3 and adds § 18.2-370.5 to modify residence restrictions for offenders convicted of certain sex offenses. Currently, offenders convicted of rape, forcible sodomy or object sexual penetration of a child under the age of 13, if committed as part of a kidnapping, burglary or aggravated malicious wounding, may not reside within 500 feet of a public or private school or child day center. Under the proposal, residence restrictions would apply to offenders convicted for any crime requiring registration with the Sex Offender and Crimes against Minors Registry (§ 9.1-902) that was committed against a child under the age of 18. The proposal broadens restrictions to prohibit residence near community parks or playgrounds, recreation centers, public pools, and school bus stops. Finally, the proposal extends the boundary of the residence restriction from 500 to 1,000 feet. Violation of residence restrictions would remain a Class 6 felony.

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* for offenders convicted of certain sex offenses and created additional restrictions to loitering in proximity of children (§18.2-370.2).

Analysis:

No data are available yet for offenders convicted for residence violations under §18.2-370.3, which became effective July 1, 2006.

According to CY2004-CY2005 Pre/Post-Sentence Investigation (PSI) data and the CY2004-CY2005 Local Inmate Data System (LIDS), there were no convictions under § 18.2-370.2 for loitering in proximity to children during that two-year period.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing Class 6 felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, 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. Convictions under the proposed § 18.2-370.5 would not be covered by the sentencing guidelines as the primary (or most serious) offense in a case; however, convictions for this crime 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.

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