



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1065

Amendment in the Nature of a Substitute

(Patron Prior to Substitute – McDougle)

LD#: 07-0571766

Date: 1/25/2007

Topic: Sex Offender Registry

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 §§ 9.1-901, 9.1-902, 9.1-903, 9.1-907, 9.1-908, 9.1-910, and 18.2-63 relating to the Sex Offender and Crimes against Minors Registry (SOR).

The proposal expands offenses for which registration is required to include:

- Conspiracy to commit any Registry offense,
- Attempted or conspired murder (§§ 18.2-31 or 18.2-32) of a victim under the age of 15 (completed acts are currently covered),
- Attempted or conspired murder (§§ 18.2-31 or 18.2-32) of a victim 15 to 17 years of age when committed in conjunction with a Registry offense (completed acts are currently covered), and
- Homicide in conjunction with an attempted or conspired act of contributing to the delinquency of a minor (§ 18.2-371) or abuse and neglect (§ 18.2-371.1) of a child (homicide with a completed violation of §§ 18.2-371 or 18.2-371.1 is currently covered).

In addition, the proposal expands the definition of a “sexually violent offense” for the purposes of registration to add:

- Conspiracy to commit any sexually violent offense,
- Carnal knowledge of a child 13 or 14 years of age - § 18.2-63 (currently a Registry offense but not a sexually violent offense),
- Producing sexually explicit materials involving minors, 1st violation - § 18.2-374.1 (2nd and subsequent violations are currently defined as sexually violent)
- Violations of federal law related to sex trafficking, abusive sexual contact, and sexual abuse, and
- Violations of Chapter 117 of Title 18 of the United States Code.

The proposal adds murder and homicide to the list of offenses for which juvenile offenders can be required to register (at the discretion of the court).

The proposal imposes additional registration requirements, including:

- Submission of fingerprints and palm prints,
- Submission of vehicle registration information for vehicles owned by the offender, and
- Re-registration following a name change or a change in vehicle registration.

Finally, the proposal removes the 10-year registration period for offenders who have not been convicted of a sexually violent offense; under the proposal, an offender must register until released from that duty by court order. The proposal specifies that petitions for removal of an offender's name from the Registry may not be filed for 10 years following a conviction for any felony (not just a conviction for failing to register, as is currently required) and may not be filed until all treatment, counseling and restitution is completed (this is not required under current provisions). The proposal also specifies that the Commonwealth shall be party to the action.

Analysis:

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. By expanding existing felony provisions related to sex offender registration, 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 overall impact of the proposal on prison beds cannot be determined.

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

Adult community corrections programs. The proposal may have an impact on the adult community corrections programs. Under the amended § 9.1-907, Community Supervision may be required to physically verify registration information, provide verification information to the Virginia State Police (VSP), or notify VSP when a person has provided false registration information. Although the extent of the impact cannot be determined, there may be a shift from local to state probation services, and the impact may be delayed by longer sentences for offenders convicted of a felony as a result of the proposal.

Virginia's sentencing guidelines. Convictions under § 18.2-472.1 are not covered by Virginia's sentencing guidelines as the primary (most serious) offense in a case; however, convictions under this statute may augment the guidelines recommendation if a covered offense is the most serious at sentencing. 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. Nonetheless, if a juvenile were committed to DJJ for the specified felony, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months.

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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