



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1237
Amendment in the Nature of a Substitute
(Patron Prior to Substitute – Obenshain)

LD#: 07-0574782

Date: 1/26/2007

Topic: Violation of provisions of protective orders

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 § 16.1-253.2 related to violations of protective orders. Currently, except under certain conditions, violation a protective order is a Class 1 misdemeanor. Under the proposal, a second violation of a protective order within five years of a conviction for a prior offense when either the instant or prior offense was based on an act or threat of violence is subject to a mandatory minimum sentence of 60 days in jail. The proposal elevates a third violation committed within 20 years to a Class 6 felony if the offense when either the instant or any of the prior offenses were based on an act or threat of violence; for such cases, the proposal establishes a mandatory minimum penalty of 6 months.

The proposal also expands the presumptive denial of bail provisions defined in § 19.2-120. Under § 19.2-120, for persons charges with any of the specified offenses, judicial officers are to 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 should the person be released from jail while awaiting trial. The proposal adds second and subsequent violations of protective orders to the list of offenses for which a person is to be presumptively denied bail.

Analysis:

According to calendar year (CY) 2004 and 2005 Local Inmate Data System (LIDS) information, there were 903 persons convicted under the existing misdemeanor provisions of § 16.1-253.2. Of these, 182 (20%) were convicted for a second violation and 97 (11%) were convicted for a third or subsequent violation. The median local-responsible (jail) term for offenders convicted for their second offense was 3 months; the median jail sentence for offenders convicted for their third or subsequent violation was 4.9 months. Five of the 97 convicted for a third or subsequent violation were sentenced to the maximum term of 12 months for the offense. The number of third or subsequent violations involving an act or threat of violence cannot be determined.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a felony for a third conviction under § 16.1-253.2, applicable in certain circumstances, the proposal is expected to increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of felony convictions that may result from the proposal cannot be estimated; therefore, the impact of the proposal on prison beds cannot be determined.

Local adult correctional facilities. Because it specifies mandatory jail terms and the presumptive denial of bail for certain protective order violators, the proposal is expected to increase the future need for local-responsible (jail) beds. The magnitude of this impact, however, cannot be quantified.

Adult community corrections resources. 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 provided. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Currently, offenses under § 16.1-253.2 are not covered by the sentencing guidelines as the primary (or 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.

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 (DJJ) 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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