



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 567

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Crockett-Stark)

LD#: 08-0911480

Date: 2/29/2008

Topic: Sex offenses prohibiting entry onto school property

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 § 18.2-370.5 by expanding the hours of the day during which violent sex offenders are prohibited from entering school or day care property. The current prohibition applies to school hours only. Under the proposal, violent sex offenders could not enter school or day care property at any time. This statute currently includes exceptions to the prohibition to allow these offenders to enter a school or day care center to vote, to attend classes as a student, or by authorization of a court order. The proposal adds another exception which would allow these offenders to enter a school or day care for the purposes of attending a scheduled religious service or a meeting related to a religious ministry as long as the offender leaves the property immediately afterward. A violation of § 18.2-370.5 is punishable as a Class 6 felony. This provision was enacted by the 2007 General Assembly.

There are several other provisions restricting sex offenders from being in proximity to children. Currently, it is a Class 6 felony under § 18.2-370.2 for adults convicted of certain offenses (e.g., kidnapping of a minor, rape, etc.) from loitering within 100 feet of a school. The 2006 General Assembly expanded this provision to cover child day centers. In addition, the 2006 General Assembly added § 18.2-370.3, to make it a Class 6 felony for an offender who has been convicted of certain sex offenses to reside within 500 feet of any place he knows or has reason to know is a school or child day center. The 2006 General Assembly also added § 18.2-370.4, making it a Class 6 felony for certain sex offenders to work or volunteer at any school or child day center.

Analysis:

The provisions of § 18.2-370.5 became effective for offenses committed on or after July 1, 2007; therefore, conviction and sentencing data for this offense are not yet available. According to fiscal year (FY) 2006 and FY2007 Pre-Sentence Investigation (PSI) data, there were no convictions under §§ 18.2-370.2, 18.2-370.3, and 18.2-370.4 involving sex offenders loitering at, residing near, or working on school property.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing felony, 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 magnitude of the impact cannot be determined.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs, but 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, the proposal may increase the need for state 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.

Virginia's sentencing guidelines. Felony convictions under § 18.2-370.5 are not covered by the sentencing guidelines as the primary (most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing 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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