



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 590

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

ID#: 08-0887248

Date: 2/21/2008

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 § 9.1-902 to expand the definition of a “sexually violent offense” for registration purposes.

The proposal expands the definition of a “sexually violent offense” by adding kidnapping of a child under age 16 for the purpose of concubinage or prostitution (§18.2-48 (iii)) and carnal knowledge of a victim age 13 or 14 (§ 18.2-63(A)) to the list of crimes for which a first conviction, rather than a second, requires registration. However, persons convicted for a first offense of kidnapping with the intent to extort money or pecuniary benefit (§ 18.2-48(i)) will no longer be required to register as a result of the proposal, although a second or subsequent conviction still requires registration as a “sexually violent offender.”

Finally, the proposal would extend the period of time an offender must continue to register before he can petition the court to have his name removed from the Registry (§ 9.1-910), while allowing the applicable registration period to be frozen while the offender is incarcerated (§ 9.1-908).

The General Assembly has revisited § 9.1-902 several times in recent years. In the 2007 session, the section was reorganized as part of an expansion of the offenses requiring registration and the information required of registrants. In 2006, there was an expansion of the offenses requiring registration and the penalties for second SOR violations were increased. In addition, registration requirements were expanded to include most juveniles adjudicated delinquent for a Registry offense.

Analysis:

According to the calendar year (CY) 2005 and 2006 Local Inmate Data System (LIDS), there were 721 persons held either pre or post-trial for a conviction under § 18.2-472.1. Of these, 65 were being held for offenses committed since July 1, 2006. Of the 65, 47 involved a “sexually violent” prior conviction, while 18 did not. Of the 47 with a “sexually violent” prior conviction, 35 were convicted of a first violation (51% were sentenced to a state-responsible (prison) term with a median sentence of three years) and 12 were convicted of a subsequent violation (67% received a prison sentence with a median term of 2.8 years).

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the list of “sexually violent” Registry offenses may increase the number of prison beds needed for an additional number of offenders who will violate SOR felony provisions; the impact of this portion of the proposal cannot be quantified. In addition, future bed-space needs may be increased by increasing the time-span that a person must continue to register with the Registry; the effect of this element should be outside of the impact forecast window. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined.

Local adult correctional facilities. By converting a current Registry offense to a “sexually violent” offense, the proposal may decrease the need for local-responsible (jail) beds because the penalty associated with a first SOR violation would be a Class 6 felony instead of the Class 1 misdemeanor. However, the magnitude cannot be determined.

Adult community corrections resources. Data are not available to estimate the proposal’s impact on state community corrections resources.

Virginia’s sentencing guidelines. The guidelines do not cover conviction under § 18.2-472.1 when this crime is the primary (most serious) offense in the case. A conviction under one of these provisions, however, could augment the guidelines recommendation as an additional offense if the most serious offense at sentencing is covered by the guidelines. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the proposal is not expected to have an impact on juvenile correctional center bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that no impact on the bed space needs of juvenile detention facilities is expected.

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.

SOR15_0887