



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#: 08-0872248

Date: 2/4/2008

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 offenses for which registration with the Sex Offender and Crimes Against Minors Registry (SOR) is required, to expand the definition of a “sexually violent offense” for registration purposes, and to increase the penalty for certain offenders who fail to register or re-register as required.

The proposal expands the definition of a “sexually violent offense” by adding kidnapping (§18.2-48(i) and (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, under subsection H of the proposal, a person convicted of carnal knowledge of a victim age 13 or 14 (§ 18.2-63(A)) may be exempt from the sexually violent offense registration requirements if he is under the age of 21 at the time of the offense, five years or less older than the victim, and has never been convicted of any other offense for which registration is required. Under these circumstances, the person may petition the court for exemption, and if granted, would be required to register under subsection B of § 9.1-902 rather than as a sexually violent offender under subsection E.

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.

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, by increasing the time span that a person must continue to register with the Registry may also increase future bed space need; the effect of this element, though, 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 certain Registry offenses to “sexually violent” offenses, the proposal may decrease the need for local-responsible (jail) beds by increasing the penalty associated with an SOR violation from a Class 1 misdemeanor to a Class 6 felony, but the magnitude cannot be determined.

Adult community corrections resources. Raising a crime from a Class 1 misdemeanor to a Class 6 felony may decrease the demand for local community-based probation services and increase the need for state community corrections resources. The *Code of Virginia*, however, allows judges to utilize local community-based probation programs for Class 5 and Class 6 felons as well as misdemeanants. Although the proposal could also result in felony convictions and subsequent supervision requirements for an additional number of offenders, data are not available to estimate the proposal’s impact on local or 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.