



## 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#:** 08-0918248

**Date:** 3/10/2008

**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 by a person more than five years older than the victim (§ 18.2-63(A)), to the list of crimes for which a first conviction, rather than a second, requires registration.

The proposal also expands the list of crimes requiring registration by adding subsections B, D and E of § 18.2-374.3, relating to the use of a communication system, such as the internet, to procure or solicit minors for certain acts. Currently, only subsection C is included as a registration offense.

The proposal extends 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 Registry 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 pre or post-trial convicted under § 18.2-472.1 for failing to register or re-register as required. 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).

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**Impact of Proposed Legislation:**

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

**Local adult correctional facilities.** The net impact of the proposal on local-responsible (jail) bed space needs 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 convictions under § 18.2-472.1 when this crime is the primary (most serious) offense in the case. A conviction under this provision, 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.

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**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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