



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### House Bill No. 919

(Patron – Bell)

LD#: 10103411

Date: 1/8/2010

Topic: Sex offenses prohibiting proximity to children

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**  
Cannot be determined, likely to be small

- **Juvenile Correctional Centers:**  
None (\$0)
- **Juvenile Detention Facilities:**  
None (\$0)

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends § 18.2-370.2 regarding offenders who have been convicted of crimes that prohibit them from having proximity to children. Currently, qualifying offenders are prohibited from going, for the purpose of having any contact with children not in his custody, within 100 feet of any premises defined as a school, child day program, or public playground, athletic field or facility, or gymnasium. Under the proposal, offenders who commit one of the specified offenses after July 1, 2010, would also be prohibited from going within 100 feet of a children's museum.

In 2000, the only restricted areas specified in § 18.2-370.2 were primary, secondary and high schools. The 2006 General Assembly added child day programs to the list of restricted areas and modified the definition of an offense prohibiting proximity to children to include failing to register or reregister as a sex offender if the offender had been convicted of an offense listed in this statute. The 2008 General Assembly added public playgrounds, athletic fields and facilities, and gymnasiums. Throughout the amendments, the penalty for violation of § 18.2-370.2 has remained a Class 6 felony.

#### Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2008 and 2009, there were two convictions for violations of § 18.2-370.2 during this time period. One offender received an effective sentence of 9.7 years and the other received a term of one year to serve. However, the number of incidents in which an adult, previously convicted of an offense prohibiting proximity to children, has gone to a children's museum is unknown.

---

**Impact of Proposed Legislation:**

**State adult correctional facilities.** Expanding § 18.2-370.2 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. Available data, however, reveal only two convictions under the existing provision during a recent two-year period. While the impact of the proposal on prison bed space cannot be quantified, it is likely to be small.

**Local adult correctional facilities.** The proposal could also increase local-responsible (jail) bed space needs of the Commonwealth. While the size of the impact cannot be quantified, it is likely to be small.

**Adult community corrections programs.** The proposal may increase the need for state community corrections resources. The magnitude of the impact cannot be estimated but is likely to be small.

**Virginia's sentencing guidelines.** Convictions under § 18.2-370.2 are not covered by the sentencing guidelines as the primary (most serious) offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center 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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

proximity03\_3411