



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1185

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

LD#: 11105257

Date: 2/9/2011

Topic: Sex offenses prohibiting entry onto school property

Fiscal Impact Summary:

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

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the 2010 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-370.5 regarding sexually violent offenders (as defined in § 9.1-902) who are prohibited from entering onto school property. The proposal amends subsection A of § 18.2-370.5 to prohibit such offenders from entering school buses as defined in § 46.2-100. The proposal also makes technical amendments. Currently, these offenders are only prohibited from entering school or child day center properties. Offenders convicted of a violent sexual offense may enter the premises described in subsection A to vote or to attend classes as a student; they may also obtain a court order to gain access to such properties. Violation of this section would remain a Class 6 felony under the proposal.

Analysis:

The provisions of § 18.2-370.5 became effective for offenses committed on or after July 1, 2007. According to the Circuit Court Automated Information System (CAIS) for fiscal years 2008 and 2009, there were three convictions under § 18.2-370.5. One offender received a local-responsible (jail) sentence of two months and another received a state-responsible (prison) term of two years (for two counts of the offense). The third offender had a more serious conviction for a second or subsequent sex offender registry violation (a Class 5 felony for an offender defined as sexually violent) and was sentenced to a total of 1.5 years for the two crimes.

According to Local Inmate Data System (LIDS) data for fiscal years 2009 and 2010, seven offenders were convicted of felony violations under § 18.2-370.5. Of these, six offenders (86%) received local-responsible (jail) terms with a median sentence of 1.5 months. One of these offenders was convicted of three counts of illegal entry onto school property and one count of violation of probation, and was given a total sentence of six months in jail. The remaining offender, convicted of two counts of illegal

entry onto school property and one count of violation of probation, received a state-responsible (prison) term of 2.5 years.

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 proposal expands the list of prohibited places where a sexually violent offender may not enter. The number of additional felony convictions that may result from this change cannot be estimated. Although the magnitude of the impact cannot be determined, it is likely to be small.

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 impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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 874 of the 2010 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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