



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 208 (Patron – Barker)

LD#: 10103178

Date: 12/29/2009

Topic: Definition of family or household member

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:**
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 § 16.1-228 to expand the definition of “family or household member” to include any individual who is or was involved in a substantive, intimate dating relationship with the person. A substantive relationship is determined based on length of relationship, nature of relationship and the frequency of interaction. A casual business or social relationship does not constitute a dating relationship.

Currently, “family or household member” includes: the person’s spouse, former spouse, parents stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents, grandchildren, and any individual who has a child in common. Also included if they reside in the same house are: mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law. Any individual who cohabits or cohabited with the person within the past 12 months and any children of either residing in the same house with the person is also defined as a “family or household member.”

Analysis:

The phrase “family or household member” is referenced by three statutes in Title 18.2 of the *Code of Virginia*. Statutes utilizing this phrase include: § 18.2-46.3, recruitment of persons for criminal street gangs; § 18.2-57.2, assault and battery against a family member; and § 18.2-60.3, stalking.

According to the Local Inmate Data System (LIDS) for calendar years 2007 and 2008, there were 6,402 offenders held pre- or post-trial in jail who were convicted of a Class 1 misdemeanor under § 18.2-57.2 for assault or assault and battery of a family member or household member and another 171 convicted of a Class 1 misdemeanor under § 18.2-60.3 for stalking.

The Circuit Court Automated Information System (CAIS) for fiscal years 2008 and 2009 includes 10 offenders convicted of a Class 6 felony involving recruitment of persons for criminal street gangs

(§ 18.2-46.3), 462 offenders convicted of Class 6 felony for a third assault on a family member (§ 18.2-57.2), and one offender convicted of a Class 6 felony for a third stalking offense (§ 18.2-60.3).

The number of incidents involving persons in a substantive, intimate dating relationship as specified in the proposal is not known.

Impact of Proposed Legislation:

State adult correctional facilities. Because the proposal expands the definition of “family and household member” to include individuals currently not covered by existing felony statutes, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but the size 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 adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia’s sentencing guidelines. The sentencing guidelines cover felony violations of § 18.2-57.2 that are processed in Virginia’s circuit courts. However, guidelines do not currently cover violations of §§ 18.2-46.3 or 18.2-60.3 as the primary (most serious) offense in a sentencing event. Such convictions, 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 (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) 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.

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