



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 486

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

LD #: 12104968

Date: 2/8/2012

Topic: Harassment by computer; prisoners

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 890 of the 2011 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal expands § 18.2-152.7:1, relating to harassment by computer. Under the proposal, a prisoner incarcerated in a state correctional facility, or any person acting at the direction of the prisoner, who uses or causes to be used a computer or a computer network to threaten or intimidate a person who was a victim of a criminal offense committed by the prisoner is guilty of a Class 1 misdemeanor. Currently, under § 18.2-152.7:1, it is a Class 1 misdemeanor to, with the intent to coerce, intimidate, or harass any person, use a computer or computer network to communicate obscene, vulgar, profane, lewd, lascivious, or indecent language, or to make any suggestion or proposal of an obscene nature, or threaten any illegal or immoral act.

Analysis:

According to the General District Court Automated Information System (CAIS) for fiscal year (FY) 2010 and FY2011, 73 offenders were convicted of a Class 1 misdemeanor for harassment by computer in violation of § 18.2-152.7:1. The majority (76.7%) of these offenders were not given an active term of incarceration to serve after sentencing. For the 23.3% who were given a local-responsible (jail) term, the median sentence was one month.

Impact of Proposed Legislation:

State adult correctional facilities. If offenders who are incarcerated in a state correctional facility are sentenced to an additional term of incarceration for the proposed Class 1 misdemeanor, this term will likely be added to the time that must be served in the state correctional facility. As a result, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth by potentially lengthening the existing prison terms of state-responsible inmates who are convicted of the proposed

misdemeanor. However, existing databases do not provide sufficient detail to estimate the number of additional misdemeanor convictions and the length of time that may be added to a state-responsible inmate's term if the proposal is enacted. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Individuals who are convicted of the proposed Class 1 misdemeanor who are not state-responsible inmates at the time of sentencing may receive a local-responsible (jail) term. Therefore, the proposal may increase the local-responsible bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal may result in additional offenders on community supervision and may lengthen the period during which certain offenders are subject to community corrections programs, the proposal may have an impact on local and 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. Misdemeanors convictions are not covered by the sentencing guidelines as the primary (most serious) offense in a case. A conviction for a misdemeanor, however, may 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 890 of the 2011 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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