



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1152 (Patron – McDougle)

LD#: 13102959

Date: 12/14/2012

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 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-370.2, relating to certain offenders who are prohibited from loitering in proximity to places frequented by children. The proposal modifies the definition of an offense prohibiting proximity to children to include any violation of § 18.2-374.3 (solicitation of a minor by use of a communications system). This proposal would only apply to individuals convicted of an offense committed on or after July 1, 2013.

Currently, it is a Class 6 felony under § 18.2-370.2 for adults convicted of specified offenses (e.g., kidnapping of a minor, rape, etc.) to knowingly loiter within 100 feet of a primary, secondary or high school. 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 playgrounds, athletic fields or facilities, or gymnasiums owned or operated by a locality to the list of restricted areas.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2011 and 2012, four offenders were convicted of a felony under § 18.2-370.2 during this time period. All four were convicted of loitering within 100 feet of a school or day care center. While one offender did not receive an active term of incarceration to serve after sentencing, the remaining three offenders were sentenced to state-responsible (prison) terms. Two of these offenders were sentenced to one year in prison and one offender, who was also convicted of probation violations, was sentenced to serve approximately 12.8 years in prison.

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 number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined. Any impact, however, is likely to be small.

Local adult correctional facilities. The proposal may also increase local-responsible (jail) bed space needs. While the magnitude of the impact cannot be determined, any impact is likely to be small.

Adult community corrections programs. Because the proposal could result in additional felony convictions and subsequent supervision requirements, the proposal may affect adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections programs cannot be quantified. However, any impact is likely to be small.

Virginia's sentencing guidelines. Convictions under the existing § 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. The Department of Juvenile Justice (DJJ) reports that this proposal would have no impact on bed space needs for juvenile correctional centers.

Juvenile detention facilities. The Department of Juvenile Justice also reports that this proposal would have no impact on juvenile detention center bed space.

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 3 of the Acts of Assembly of 2012, Special Session I, 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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