



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 235

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Bell, Robert B.)

LD #: 14104587

Date: 2/3/2014

Topic: Sex Offender Registry and taking of minors for prostitution

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 806 of the 2013 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 §§ 9.1-902 and 18.2-355 of the *Code of Virginia*, relating to offenses requiring registration with the state's Sex Offender and Crimes against Minors Registry and the taking of minors for prostitution.

The proposal expands § 18.2-355 by adding a paragraph 4 to make it a Class 4 felony for any person to take a minor, or cause a minor to be taken, to any place for the purposes of prostitution or unlawful sexual intercourse. Currently, under § 18.2-355, any person who, for the purposes of prostitution or unlawful sexual intercourse, takes another person into a bawdy place, or persuades, encourages or causes a person to enter a bawdy place, or takes or causes a person to be taken to any place for such purposes against his or her will is guilty of a Class 4 felony. Also, it is currently a Class 4 felony for a parent, guardian, or legal custodian to consent to a person being taken or detained for prostitution or unlawful sexual intercourse, or for any person to take or detain another against his or her will with the intent to compel the person to marry or be defiled.

The proposal also amends § 9.1-902 to expand the offenses requiring registration with the state's Sex Offender and Crimes against Minors Registry to include the proposed paragraph 4 of § 18.2-355 described above and the crime of soliciting a minor for prostitution (§ 18.2-346(B)). The penalty for soliciting a minor for prostitution was increased from a misdemeanor to a felony by the 2013 General Assembly.

The General Assembly has revisited § 9.1-902 several times in recent sessions. In the 2007 session, the section was reorganized as part of an expansion of the offenses requiring registration and the information required of registrants (the legislation also restructured the penalties involving child pornography). During the 2006 session, there was an expansion of the offenses requiring registration and the penalties

for second or subsequent Registry violations were increased. The 2005, 2008, and 2013 General Assemblies also expanded the offenses requiring registration. Since July 1, 2005, judges have had the authority to require juveniles adjudicated of specified crimes to register as sex offenders if the juvenile was over the age of 13 when the offense was committed.

Under § 18.2-472.1, the first Registry violation committed by an offender who is not defined as sexually violent is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. The first Registry violation committed by a sexually violent offender is punishable as a Class 6 felony; a second or subsequent Registry violation is a Class 5 felony.

Analysis:

The General District Court Case Management System (CMS)¹ contains the most recent data for misdemeanor violations related to failing to register or re-register as required. In fiscal year (FY) 2012 and FY2013, 340 offenders were convicted of a misdemeanor for a Registry violation (as the most serious offense). Of these offenders, 44.7% did not receive an active term of incarceration to serve after sentencing. The median sentence length for the 55.3% who were given a local-responsible (jail) term was two months.

According to the Circuit Court CMS database for fiscal years 2012 and 2013, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 539 sentencing events during this time period. While more than half (56.2%) of these offenders received a local-responsible (jail) sentence (with a median sentence of six months), 22.3% did not receive an active term of incarceration to serve after sentencing. For the remaining 21.5% who were given a state-responsible (prison) term, the median sentence was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal expands an existing felony offense related to taking a minor for prostitution or unlawful sexual intercourse. The proposal also adds to the list of crimes for which individuals must register, which may result in additional felony convictions for violations of Registry provisions. Thus, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate how many additional felony convictions may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. Similarly, the magnitude of the impact on local-responsible (jail) bed space needs cannot be determined.

Adult community corrections resources. The potential impact on community corrections resources cannot be determined.

Virginia's sentencing guidelines. Felony convictions under §§ 18.2-355 and 18.2-472.1 are covered by the current sentencing guidelines. No adjustment to the 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.

¹ Formerly referred to as the Court Automated Information System (CAIS).

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 806 of the 2013 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.

sor12_4587