



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 384

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

LD#: 14104494

Date: 1/27/2014

Topic: Sex offenses prohibiting proximity to children

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 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 § 18.2-370.2, relating to offenders who have been convicted of crimes that prohibit them from being within a certain proximity to children. Currently, qualifying offenders are prohibited from going within 100 feet of any premises defined as a school, child day program, or public playground, athletic field or facility, or gymnasium for the purpose of having any contact with children that are not in their custody. Under the proposal, adults who commit one of the specified offenses on or after July 1, 2014, would also be prohibited from knowingly and intentionally approaching within six feet of any children that are not in his custody on the premises of a public library. A violation of § 18.2-370.2 is punishable as a Class 6 felony.

In 2000, the only restricted areas specified in § 18.2-370.2 were primary, secondary and high schools. 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 a crime listed in this statute. The 2008 General Assembly added public playgrounds, athletic fields and facilities, and gymnasiums.

Analysis:

According to the Circuit Court Case Management System (CMS)¹ for fiscal years 2012 and 2013, 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 a state-responsible (prison) term of one year.

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

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in additional felony convictions and subsequent supervision requirements for some offenders, the proposal may increase the need for adult community corrections resources. The potential impact on community corrections programs, however, cannot be determined.

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. 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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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