



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 177

Amendment in the Nature of a Substitute

(Patrons Prior to Substitute – Albo, Bell, Robert B., and Peace)

LD#: 16105926

Date: 2/29/2016

Topic: Sex Offender Registry

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**

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 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, relating to offenses requiring registration with the state's Sex Offender and Crimes against Minors Registry. Specifically, the proposal would expand the list of offenses requiring registration to include several additional offenses, if they are committed on or after July 1, 2016. First, the proposal would add aggravated malicious wounding under § 18.2-51.2 if the perpetrator is 18 years of age or older and the victim is under 13. In addition, violations of §§ 18.2-356 and 18.2-357 involving the pandering of a minor or the procurement of a minor for the purposes of forced labor, etc., would also be included in the list. These offenses would not be classified as sexually violent under the proposal.

Pursuant to § 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.

The General Assembly has revised § 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, 2013, 2014, and 2015 General Assemblies also expanded the offenses requiring registration. The 2015 General Assembly amended § 9.1-902 to require offenders convicted of commercial sex trafficking involving minors under § 18.2-357.1(C) to register. Since July 1, 2005, judges have had the authority to require juveniles adjudicated of specified crimes to register if the juvenile was over the age of 13 when the offense was committed.

Analysis:

The General District Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015 indicates that 366 offenders were convicted of a Class 1 misdemeanor for a Registry violation. Of these offenders, 44.8% did not receive an active term of incarceration to serve after sentencing. The median sentence length for the 55.2% who were given a local-responsible (jail) term was two months.

According to the Sentencing Guidelines database for FY2014 and FY2015, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 566 sentencing events during this time period. While more than half (61.5%) of these offenders received a local-responsible (jail) sentence (with a median sentence of six months), 20.3% did not receive an active term of incarceration to serve after sentencing. The remaining 18.2% were given a state-responsible (prison) term, with a median sentence length of 1.3 years.

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the list of crimes for which individuals must register may result in additional felony convictions for violations of Registry provisions. In this way, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data do not contain sufficient detail to estimate the number of additional felony convictions that may result if the proposal is enacted. 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 resources. 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. Felony convictions under § 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.

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 665 of the 2015 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.