



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 323
As Enrolled
(Patron Prior to Enrollment – Favola)

LD#: Enrolled

Date: 3/10/2016

Topic: Violations of protective orders

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 §§ 16.1-253.2 and 18.2-60.4 of the *Code of Virginia* to increase penalties related to violations of protective orders. Currently, a violation of a protective order is a Class 1 misdemeanor, punishable by up to 12 months in jail; however, the punishment for a second violation within five years (with at least one involving an act or threat of violence) includes a mandatory minimum term of confinement of 60 days. In addition, any person who violates a protective order three or more times in 20 years (with at least one involving an act or threat of violence) is guilty of a Class 6 felony and subject to a mandatory minimum term of confinement of six months. If an offender commits an assault and battery resulting in serious bodily injury to any person protected by the protective order, he or she is guilty of a Class 6 felony. Any person who violates a protective order by furtively entering the home of a protected person is also guilty of a Class 6 felony.

Under the proposal, any person who, after having been served with a protective order, violates any provision thereof while knowingly armed with a firearm or other deadly weapon would be guilty of a Class 6 felony.

Analysis:

During fiscal year (FY) 2014 and FY2015, a total of 3,226 offenders were convicted of a misdemeanor violation of a protective order (as the primary, or most serious, offense) in General District Court, Juvenile and Domestic Relations Court, or Circuit Court. Of the total, 11 offenders had an additional

offense conviction indicating possession of a firearm at the time of the protective order violation. Three of the 11 offenders (27.3%) did not receive an active term of incarceration to serve after sentencing; the remaining eight offenders (72.7%) received a local-responsible (jail) term, with a median sentence of approximately 3.4 months. Existing data sources do not contain sufficient detail to determine how many of these offenders were served with the protective order prior to committing the violation.

According to the Circuit Court Case Management System (CMS) for FY2014 and FY2015, 45 offenders were convicted of a Class 6 felony under §§ 16.1-253.2 or 18.2-60.4 for violating a protective order (as the primary offense). Of these, one offender (2.2%) did not receive an active term of incarceration to serve after sentencing. Another 60.0% received a local-responsible (jail) term, with a median sentence of six months. The remaining 37.8% received a state-responsible (prison) term, for which the median sentence was three years.

Impact of Proposed Legislation:

State adult correctional facilities. By establishing a new Class 6 felony for violating a protective order while armed with a deadly weapon, the proposal is expected to increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data sources do not contain sufficient detail to identify cases in which the offender violated a protective order after being served and therefore would be subject to the enhanced penalty. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may impact local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be quantified with existing data.

Adult community corrections programs. Because the proposal would result in additional felony convictions and subsequent supervision requirements for some offenders, the proposal will increase the need for state community corrections resources. The precise impact on community corrections resources, however, cannot be determined.

Virginia's sentencing guidelines. The new Class 6 felony would not be covered by the sentencing guidelines; however, convictions for this crime 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 (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.