



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 339

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

LD#: 16105055

Date: 2/2/2016

Topic: Stalking

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
None (\$0)*
- **Juvenile Detention Facilities:**
None (\$0)*

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-60.3, relating to stalking. Under current *Code*, it is a Class 1 misdemeanor to engage in conduct on more than one occasion that is intended to instill the fear of death, injury, or sexual assault in another person or a member of his or her family or household. The proposal adds language stating that if the offender attempts to contact or follow another after being given actual notice that the intended victim does not want to be contacted or followed because such actions place the person in fear of death, criminal sexual assault, or bodily injury, such actions shall be prima facie evidence that the offender intended to place that person, or reasonably should have known that the other person was placed, in fear of death, injury, or sexual assault.

In addition to the Class 1 misdemeanor, stalking is currently a Class 6 felony in cases in which the offender has previously been convicted of assaulting a family or household member (§ 18.2-57.2), violating a protective order, or assaulting the victim of the current stalking offense within the last five years. A third conviction under the stalking provision within five years is also a Class 6 felony.

Analysis:

During fiscal year (FY) 2010 through FY2015, a total of 906 offenders were convicted of a misdemeanor stalking offense (as the primary, or most serious, offense) in general district court, juvenile and domestic relations court, or circuit court. Of these, 47.7% did not receive an active term of incarceration to serve after sentencing. The remaining 52.3% received a local-responsible (jail) term, with a median sentence of three months.

According to the Circuit Court Case Management System (CMS) for FY2010 through FY2015, no offenders were convicted under § 18.2-60.3 for stalking following a prior assault/protective order conviction involving the same victim within the past five years. However, five offenders were convicted of a Class 6 felony for a third stalking offense within five years. Of these, one offender (20%) did not receive an active term of incarceration to serve after sentencing. Two offenders (40%) received local-responsible (jail) terms, with a median sentence of approximately 3.3 months. The remaining two offenders (40%) received state-responsible (prison) terms, for which the median sentence was 2.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal states that if a person contacts or follows another after being given actual notice that the other person does not want to be contacted or followed because such actions place that person in fear of death, sexual assault, or bodily injury, such actions are prima facie evidence that the person intended to place, or reasonably should have known that the other person was placed, in fear of death, etc. Since it does not expand the applicability of existing offenses, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is unlikely to increase the local-responsible (jail) bed space needs of the Commonwealth.

Adult community corrections programs. The proposal is not expected to impact adult community corrections resources.

Virginia's sentencing guidelines. The sentencing guidelines do not cover felony violations of § 18.2-60.3. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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