



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### House Bill No. 622

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

LD#: 18107003

Date: 2/9/2018

Topic: Sex offenses prohibiting entry onto school property

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Direct Care:**  
None (\$0) \*\*
- **Juvenile Detention Facilities:**  
None (\$0) \*\*

\*\* 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 836 of the 2017 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 § 18.2-370.5 to expand the types of offenders who are prohibited from entering onto school or other school-related properties. Currently, under § 18.2-370.5, sexually violent offenders (as defined in § 9.1-902) are prohibited from entering or being present in a school, child day center, school bus, or any other properties that are solely being used for school-related or school sponsored activities. The proposal expands the list of prohibited persons to include any sex offender who is required to register due to a felony conviction in accordance with subsection B of § 9.1-902 (not defined as sexually violent) when the victim of offense was a minor. Violation of § 18.2-370.5 is a Class 6 felony punishable by one to five years imprisonment.

#### Analysis:

According to the Virginia Department of State Police, as of November 16, 2017, a total of 23,199 sex offenders are registered in Virginia. Of these, approximately 60% are in the community (this figure excludes the individuals who are currently incarcerated or civilly committed). Among the registered offenders in the community, 3,598 are registered sex offenders not defined as sexually violent in § 9.1-902.

Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected by the proposal. First, it is unclear how many of the registered sex offenders described above committed offenses against minors. Second, it is difficult to estimate how many of these offenders will

violate the proposed provision. However, affected offenders may be sentenced similarly to those currently convicted of a Class 6 felony under § 18.2-370.5.

According to the Circuit Court Case Management System (CMS) for fiscal years 2016 and 2017, 29 offenders were convicted of felonies under § 18.2-370.5 during this time period. Felony violation under § 18.2-370.5 was the primary, or most serious, offense in 27 of the cases. Approximately half (48.2%) of these offenders did not receive an active term of incarceration to serve after sentencing. Another 37% were given a local-responsible (jail) term and 14.8% received a state-responsible (prison) term. For the offenders committed to prison, the median sentence was 3.25 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the applicability of an existing felony, 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 on prison bed space needs 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 felony convictions and subsequent supervision requirements for additional 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 § 18.2-370.5 are not covered by the sentencing guidelines as the primary (most serious) offense. Such convictions, 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 direct care.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) 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.

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**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 836 of the 2017 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.**