



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 253 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Watts)

LD#: 20108030

Date: 2/10/2020

Topic: Sex Offender and Crimes Against Minors 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 Direct Care:**
Cannot be determined**
- **Juvenile Detention Facilities:**
Cannot be determined**

** Provided by the Department of Juvenile

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 854 of the 2019 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 to require additional persons to register with the state's Sex Offender and Crimes against Minors Registry. The proposal would add a third or subsequent conviction for unlawfully disseminating or selling images of another with intent to harass (a Class 1 misdemeanor defined in § 18.2-386.2), committed on or after July 1, 2020, to the list of offenses requiring registration. This offense would not be categorized as violent for Registry purposes.

Currently, offenders with a third conviction for sexual battery (§ 18.2-67.4), attempted sexual battery (§ 18.2-67.5), sexual abuse of a 13 or 14-year-old child (§ 18.2-67.4:2), or unlawfully creating an image of another (§ 18.2-386.1) are among those required to register.

Under § 18.2-472.1, the first Sex Offender 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.

Analysis:

The crime of unlawfully disseminating or selling images of another with intent to harass (§ 18.2-186.2) was created by the 2014 General Assembly. General District Court Case Management System (CMS) data for fiscal year (FY) 2018 and FY2019 indicate that 61 offenders were convicted of this Class 1 misdemeanor during the two-year period. The number of offenders for whom this was the third or subsequent conviction is not known, nor is the number of offenders who may accumulate three convictions under this provision in the future. Moreover, existing data do not contain sufficient detail to estimate the number of affected offenders who would subsequently violate Registry requirements. However, affected offenders may be sentenced similarly to individuals currently convicted of a Registry violation (see table below).

Offenders Convicted of Violations of Virginia’s Sex Offender and Crimes against Minors Registry

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Sex Offender Registry violation: Not violent category, 1 st offense ^a	273	48.0%	52.0%	2 mos.	na	na
Sex Offender Registry violation: Not violent category, 2 nd or subsequent offense ^b	66	37.9%	53.0%	6 mos.	9.1%	1.5 yrs.

Note: Analysis is based on sentencing events in which the specified offense was the primary, or most serious, offense.

Sources: ^a Supreme Court of Virginia - General District Court Case Management System (CMS), FY2018-FY2019;

^b Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2018-FY2019.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal would require additional persons to register with the state’s Sex Offender and Crimes against Minors Registry. This could result in additional felony convictions for Registry violations for which an offender could receive a prison sentence. In this way, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. Existing databases do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Thus, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. 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 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 for Registry violations (§ 18.2-472.1) are covered by the sentencing guidelines as the primary, or most serious, offense. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 854 of the 2019 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.