



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2571

(Patron – Shannon)

LD#: 07-8658502

Date: 12/27/2006

Topic: Sex Offender Registry

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$1,389,775 (54 beds)
- **Local Adult Correctional Facilities:**
-\$37,130 (-4 beds)
- **Adult Community Corrections Programs:**
Cannot be determined

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

Summary of Proposed Legislation:

The proposal amends §§ 9.1-902 and 18.2-472.1 relating to the Sex Offender and Crimes against Minors Registry (SOR). For offenders who have not been convicted of a “sexually violent offense or murder” as defined in § 9.1-902, the proposal increases the penalty for the first violation of registration requirements from a Class 1 misdemeanor to a Class 6 felony. The proposal also requires a Registry violator’s probation or parole to be revoked. The proposal clarifies that the definitions in § 9.1-902 include similar offenses described in both existing and former laws of jurisdictions outside Virginia.

The 2006 General Assembly amended the penalties for failing to register or re-register as required. Currently, for offenders convicted of a “sexually violent offense,” violation of registration requirements is a Class 6 felony for the first conviction and a Class 5 felony for any second or subsequent conviction (§ 18.2-482.1). For other offenders who are required to register, violation is a Class 1 misdemeanor for the first conviction and a Class 6 felony for any second or subsequent conviction.

Analysis:

As of December 15, 2006, the Sex Offender and Crimes against Minors Registry (SOR) contained the names of 13,180 offenders living in Virginia. Most (80%) are registered as sexually violent offenders (as defined in § 9.1-902).

According to calendar year (CY) 2004 and CY2005 Pre-Sentence Investigation (PSI) data, there were 97 offenders convicted of a Class 6 felony for failing to register as a sexually violent offender. Based on the CY2004 and CY2005 Local Inmate Data System (LIDS), there were 132 offenders convicted of a Class 1 misdemeanor for failing to register for any other sex offense.

Impact of Proposed Legislation:

State adult correctional facilities. By raising the penalty for certain Registry violations from a misdemeanor to a felony, the proposal is expected to increase the need for state-responsible (prison)

beds. The impact is estimated to be 54 beds by FY2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$1,389,775.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY08	FY09	FY10	FY11	FY12	FY13
16	32	41	46	51	54

Local adult correctional facilities. Based on the same methodology, the estimated impact on local-responsible (jail) bed space needs is four fewer jail beds statewide by FY2013, for a savings to the state of \$37,130 and \$34,332 to the localities.

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY08	FY09	FY10	FY11	FY12	FY13
-2	-3	-4	-4	-4	-4

Adult community corrections programs. The proposal may have an impact on the adult community corrections programs. Although the extent of the impact cannot be determined, there may be a shift from local to state probation services, and the impact may be delayed by longer sentences for offenders convicted of a felony as a result of the proposal.

Virginia's sentencing guidelines. Convictions under § 18.2-472.1 are not covered by Virginia's sentencing guidelines as the primary (most serious) offense at event. However, convictions under this statute may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines is needed.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs. Nonetheless, if a juvenile were committed to DJJ for the specified felony, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months.

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.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$1,389,775 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2006.
2. New cases representing state-responsible sentences were based on forecasts developed for the Secretary's Committee on Inmate Forecasting and approved in July 2006.
3. Cost per prison bed was assumed to be \$25,709 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on the Compensation Board's FY2005 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.37 per day or \$10,362 per year. The local cost was calculated by using the daily expenditure cost of \$59.24 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which

resulted in \$26.23 per day or \$9,581 per year. ***Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.***

5. The impact of the proposed legislation, which would be effective on July 1, 2007, is phased in to account for case processing time.

Assumptions relating to sentence lengths

1. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2005. For sex crimes, this rate was 10.28%.
2. For persons convicted of a first SOR violation under § 18.2-472.1 who were not defined as "sexually violent," it was assumed that the distribution of sentences under the proposal would be similar to the distribution of sentences for persons currently convicted of a Class 6 felony for Registry violations.

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