



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2828 (Patron – Peace)

LD#: 07-7787105

Date: 1/8/2007

Topic: Stalking a minor

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None
- **Juvenile Detention Facilities:**
None

Summary of Proposed Legislation:

The proposal amends § 18.2-60.3 to establish a six-month mandatory minimum sentence for stalking if the victim is under the age of 15 and the offender is more than 3 years older than the victim. Under the proposal, the penalty for a second or subsequent stalking of a minor under the age of 15 within five years is raised from a Class 1 misdemeanor to a Class 6 felony requiring a mandatory minimum sentence of two years.

Currently under § 18.2-60.3, stalking another person, regardless of age, is a Class 1 misdemeanor. Under the statute, a third or subsequent conviction within a five-year period is punishable as a Class 6 felony.

Analysis:

According to calendar year (CY) 2004 and CY2005 Local Inmate Data System (LIDS) data, 83 offenders held pre- or post-trial in jail were convicted of misdemeanor stalking under § 18.2-60.3. The majority (74%) of these offenders were sentenced to a local responsible (jail) term, for which the median sentence was three months. Thirteen of the 83 offenders had a known prior misdemeanor stalking conviction. Most (69%) received local-responsible (jail) terms (median sentence of four months); the remaining 31% received probation without an active term of incarceration.

Based on CY2002 through CY2005 LIDS data, six offenders held pre- or post-trial in jail were convicted under the felony provision of § 18.2-60.3 for a third or subsequent stalking offense within five years (these are cases in which this offense was the primary, or most serious, offense at sentencing). One offender was sentenced to prison for five years as the result of a jury trial; the remaining cases resulted in jail sentences.

The number of these cases involving a victim under the age of 15 and an offender more than 3 years older is unknown.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the penalty for certain repeat stalking offenders and creates two new mandatory minimums, the proposal may have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact cannot be quantified.

Local adult correctional facilities. The proposal may have an impact on future local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined with existing data.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, it may increase the need for adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under § 18.2-60.3 are not covered by the sentencing guidelines as the primary (most serious) offense in a sentencing 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 would be necessary as a result of 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 cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

stalk05_7787