



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1237

(Patron – Obenshain)

LD#: 07-8941782

Date: 12/11/2006

Topic: Violation of provisions of protective orders

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
54 beds FY2013 (\$1,387,151)
- **Local Adult Correctional Facilities:**
-11 beds by FY2013
- **Adult Community Corrections Programs:**
Cannot be determined

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

Summary of Proposed Legislation:

The proposal amends § 16.1-253.2 to increase penalties and add mandatory minimum sentences for second and third violations of protective orders. Currently, except under certain conditions, violation a protective order is a Class 1 misdemeanor. The proposal specifies that a second violation of a protective order within five years of a conviction for a prior offense would require a mandatory minimum sentence of 60 days in jail. The proposal elevates a third violation within 20 years of the first conviction to a Class 6 felony and sets a mandatory minimum penalty of one year for this crime.

Analysis:

According to Calendar year (CY) 2004 and 2005 Local Inmate Data System (LIDS) information, there were 903 persons convicted under the existing misdemeanor provisions of § 16.1-253.2. Of these, 182 (20%) were convicted for a second violation and 97 (11%) were convicted for a third or subsequent violation. The median local-responsible (jail) term for offenders convicted for their second offense was three months; the median jail sentence for offenders convicted for their third or subsequent violation was 4.9 months. Five of the 97 convicted for a third or subsequent violation were sentenced to the maximum term of 12 months for that offense.

Impact of Proposed Legislation:

State adult correctional facilities. Increasing the statutory penalty range and adding mandatory minimums penalties for offenses defined in § 16.1-253.2 as proposed will increase the future state-responsible (prison) bed space needs of the Commonwealth. The impact on state-responsible (prison) beds is estimated to be 54 beds by FY2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$1,387,151.

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

FY08	FY09	FY10	FY11	FY12	FY13
33	47	52	52	53	54

Local adult correctional facilities. The proposal will likely reduce the future need for local-responsible (jail) beds, as some offenders who historically received a jail sentence would be required to serve a prison term under the proposal. The impact on local-responsible (jail) beds is estimated to be a net reduction of 11 beds statewide by FY2013 (state savings: \$118,220; local savings: \$109,310).

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

FY08	FY09	FY10	FY11	FY12	FY13
-7	-9	-10	-10	-11	-11

Adult community corrections resources. 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 provided. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Currently, offenses under § 16.1-253.2 are not covered by the sentencing guidelines as the primary (or 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.

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 offender were to be convicted under the proposal, a judge could commit the juvenile to DJJ, where 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 (DJJ) 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 \$1,387,151 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.

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.***

Assumptions relating to sentence lengths

1. The impact of the proposed legislation on criminal provisions, which would be effective on July 1, 2007, is phased in to account for case processing time of new cases.
2. The 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 person offenses the rate was 10.5%. Release dates for local-responsible felony convictions were estimated based on data provided by the Compensation Board on the average percentage of time actually served by felons sentenced in FY2003 to local jails; this rate was 89.7%.
3. To gauge the impact of increased penalty structures under the proposal, existing offenses in the *Code of Virginia* with penalty structures matching the proposed penalty were identified. It was assumed that the distribution of sentences under the proposal will be similar to the distribution of sentences for existing crimes with the same penalty structure under current *Code*. Sentences for existing Class 6 felonies for violations of protective orders were used to estimate sentences for the proposed penalties.
4. Offenders eligible for a mandatory term under the proposal were treated as having been sentenced to the specified mandatory term, unless the sentence estimated for the case through the process noted above already exceeded the proposed mandatory minimum penalty.

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