



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 995

(Patron – Bell)

LD#: 08-0654432

Date: 12/18/2007

Topic: Unlawful filming of another

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal amends § 18.2-67.5:1 to add the crime of unlawfully filming or videotaping another, in violation of § 18.2-386.1.

Under § 18.2-67.5:1, a third conviction for one of the misdemeanor sex/obscenity offenses listed in this statute within 10 years is elevated to a Class 6 felony. Currently, this provision includes misdemeanor sexual battery, attempted sexual battery, a violation of § 18.2-371 involving consensual intercourse with a child, and indecent exposure. The proposal expands the list of specified misdemeanor offenses to include unlawful filming or videotaping of another.

Analysis:

According to fiscal year (FY) 2006 and FY2007 Pre/Post-Sentence Investigation (PSI) data, eight persons were convicted of a Class 6 felony under § 18.2-67.5:1 for a third misdemeanor sex/obscenity offense. Six of the eight offenders received a prison term, for which the median sentence was 1.5 years.

According to calendar year (CY) 2005 and CY2006 Local Inmate Data System (LIDS) data, a total of 19 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor under § 18.2-286.1 for unlawful filming. For 16 of the 19 offenders, this offense was the most serious charge at conviction. Nearly all of the offenders held in jail received an active term of incarceration for the offense; the median jail sentence was three months. Only one offender received no active time to serve. Based on LIDS data (dating back to CY2000), none of the offenders were found to have two prior convictions that would qualify him for the enhanced penalty under § 18.2-67.5:1.

There were five other offenders held pre- or post-trial in jail for unlawfully filming a minor, a Class 6 felony under § 18.2-386.1. The Class 6 felony was the most serious charge at conviction for three of the five offenders: one received no active time to serve, another received ten months in jail, and the third received a one-year prison sentence.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of an existing Class 6 felony, the proposal could increase the need for state-responsible (prison) beds. The number of additional felony convictions that may result from the proposal, however, cannot be determined. Although the magnitude of the impact cannot be quantified, data suggest that it is likely to be small.

Local adult correctional facilities. The proposal could also increase the need for local-responsible (jail) beds. The magnitude of the impact cannot be determined, but it is expected to be small.

Adult community corrections resources. By expanding the applicability of an existing felony, the demand for local community-based and state community corrections programs may increase. The impact on local and state community corrections resources cannot be quantified.

Virginia's sentencing guidelines. The guidelines do not cover convictions under § 18.2-67.5:1 when this crime is the primary (most serious) offense in the case. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact on bed space needs of juvenile correctional centers (JCC) cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the 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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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