



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 114

(Patron – McDougle)

ID#: 08-0306272

Date: 11/29/2007

Topic: Application of sex offender prohibitions to out-of-state violations

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

Summary of Proposed Legislation:

The proposal amends §§ 9.1-902 to clarify language that offenses requiring an offender to register with Virginia's Sex Offender and Crimes Against Minors Registry (SOR) are to include similar offenses committed in other states or other countries as well as offenses committed in another state that would require registration under the laws of that state. The proposed change is not substantive, as the current statute includes these offenses.

The proposal expands the crimes listed in §§ 18.2-370.2 (sex offenses prohibiting proximity to children), 18.2-370.3 (sex offenses prohibiting residence in proximity to children), 18.2-370.4 (sex offenses prohibiting work on school or child day center property), and 18.2-370.5 (sex offenses prohibiting entry onto school or child day center property) to include similar offenses committed in other states or other countries and offenses committed in another state that would require registration as a sex offender under the laws of that state. Any violation of these sections is a Class 6 felony.

The 2000 General Assembly passed § 18.2-370.2 prohibiting convicted sex offenders from loitering within 100 feet of a primary, secondary or high school. In the 2006 session, this section was amended to (i) add sex offender registry violations to the list of offenses prohibiting proximity to children and (ii) include child day centers as prohibited sites. The General Assembly enacted §§ 18.2-370.3 and 18.2-370.4 during the 2006 session, followed by § 18.2-370.5 during the 2007 session.

Analysis:

Analysis of fiscal year (FY) 2006 and FY2007 Pre/Post-Sentence Investigation (PSI) data and calendar year (CY) 2005 and CY2006 Local Inmate Data System (LIDS) information did not reveal any convictions under §§ 18.2-370.2, 18.2-370.3, 18.2-370.4, or 18.2-370.5. However, three of the four statutes were enacted only in the last two years. Although § 18.2-370.2 (sex offenses prohibiting proximity to children) was enacted in 2000, § 18.2-370.3 (sex offenses prohibiting residence in proximity to children) and 18.2-370.4 (sex offenses prohibiting work on school or child day center property) were not added to the *Code* until 2006 and § 18.2-370.5 (sex offenses prohibiting entry onto school or child day center property) was not adopted until 2007.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands offenses that prohibit proximity to children, work on school property, entry onto school grounds, and residence near schools (§§ 18.2-370.2 through 18.2-370.5), the proposal could result in an increase in the number of offenders convicted of a Class 6 felony for violating these provisions. Although data do not reveal any convictions under these statutes, all but one these provisions are recent additions to the *Code*. The number of additional felony convictions that may result from the proposal in the future cannot be estimated; therefore, the magnitude of the impact cannot be determined.

Local adult correctional facilities. Similarly, the impact on the local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. The impact of the proposal on state community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Convictions under §§ 18.2-370.2 through 18.2-370.5 are not covered by the sentencing guidelines as the primary (or most serious) offense. A conviction under one of these provisions, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

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.

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 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.

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