



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2361

(Patron – Gilbert)

ID#: 09-1526516

Date: 1/15/2009

Topic: Sex Offender Registration

Fiscal Impact Summary:

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

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

Summary of Proposed Legislation:

The proposal amends § 9.1-902(G) to expand the number of juvenile offenders required to register with the Sex Offender and Crimes Against Minors Registry. Specifically, the proposal would require all juveniles adjudicated delinquent for a sexually violent offense or a specified homicide/murder offense to register. For other offenses for which registration would be required as an adult, the court may, upon motion of the Commonwealth's attorney, require a juvenile who was at least 13 years old at the time of the offense to register. Under the current statute, no offense requires a juvenile to register; the court may, upon motion from the prosecutor, order a juvenile who was at least 14 years of age at the time of the offense to register. The proposal lowers the minimum age at which juveniles can be required to register. The penalties for violating Registry requirements are delineated in § 18.2-472.1.

The proposal amends § 18.2-370.5 regarding sex offenders prohibited from entering school property. Currently, an offender previously convicted of a sexually violent offense is barred from school property unless he is there to vote in an election, he has obtained a court order allowing it, or he is a student enrolled in the school. Under the proposal, the exception for sex offenders enrolled in school is narrowed to permit only those sex offenders enrolled in private schools to be on school property.

The proposal would add § 22.1-277.09 to the *Code* to require school boards to expel all students who have been convicted or adjudicated delinquent for a sexually violent offense or a specified homicide/murder offense listed in § 9.1-902; other sections are amended to set conditions for such students to appeal their expulsion, or to participate in alternative education programs or GED testing.

The General Assembly has revisited various sections in Chapter 9 of Title 9.1 (Sex Offender and Crimes Against Minors Registry Act) several times in recent years. In the 2008 session, the crimes requiring registration were restructured. During the 2007 session, the information required of registrants was expanded and the list of crimes requiring registration was expanded and reorganized. In 2006, the General Assembly increased the offenses requiring registration and the penalties for second SOR violations. In addition, the *Code* was changed to the court a juvenile who has been adjudicated delinquent for a Registry offense to register.

Analysis:

For fiscal year (FY) 2007 and FY2008, the Juvenile Tracking System (JTS) indicates that approximately one in four (23%) juveniles committed to the Department of Juvenile Justice (DJJ) was committed for at least one sexually violent offense. On February 1, 2008, DJJ's Reception and Diagnostic Center (RDC) began to collect information on juveniles who are required to register as sex offenders. Of the 504 juveniles received by RDC in the first eight months of data collection, the court has required registration for 10 (2%). The number of juveniles who will subsequently violate Registry requirements is not known.

As § 18.2-370.5 was added to the *Code* by the 2007 General Assembly, sentencing data for the felony offense are not yet available.

Impact of Proposed Legislation:

State adult correctional facilities. While the proposal could increase the state-responsible (prison) bed space needs for adults, any impact is likely to be negligible during the six-year projection window. The impact of the proposal may be greater beyond the six-year window, should the additional juveniles who have been required to register violate Registry requirements or commit new crimes as adults.

Local adult correctional facilities. Similarly, the impact of the proposal, if any, on local-responsible (jail) bed space needs is likely to be negligible during the six-year projection window.

Adult community corrections resources. The proposal may increase the need for adult community corrections resources in the future, but any impact during the next six years is expected to be negligible.

Virginia's sentencing guidelines. Convictions under §§ 18.2-370.5 and 18.2-472.1 are not covered by the sentencing guidelines as the primary (most serious) offense in a case; however, convictions for these crimes may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. Expanding registration requirements for juveniles may result in additional violations of Registry provisions, with a corresponding increase in the number of juvenile commitments. According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice, the impact of the proposal 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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