



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

#### House Bill No. 1198

(Patron – Iaquinto)

LD #: 10102348

Date: 12/23/2009

Topic: Sex Offender Registry

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

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

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends §§ 9.1-902, 9.1-907, 9.1-908, 53.1-116.1, and 53.1-160.1 and adds a section numbered 37.2-921 pertaining to the Sex Offender and Crimes Against Minors Registry.

##### § 9.1-902

The proposal adds language to the statute clarifying sex offender registry requirements in cases in which registration is not otherwise required in Virginia but where registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted. Language is also added to require registration in Virginia if the offender was initially required to register in a jurisdiction but adjudication was withheld by the court.

Also, for offenses under the statute that require registration based on the victim's age, physical helplessness, or mental incapacity under § 18.2-67.10, the proposal adds language to the statute stating that the age, helplessness, or incapacity may, but need not be, alleged in the charging instrument or conviction order.

##### § 9.1-907

The proposal requires the Department of Corrections or Community Supervision to physically verify the registration information within 30 days of original registration (and semiannually each year thereafter) and within 30 days of a change of address of all sex offenders committed to the Department of Behavioral Health and Developmental Services who are under community supervision.

##### § 9.1-908

The proposal adds that sex offenders civilly committed pursuant to Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 shall not be required to reregister until released from custody.

§ 37.2-921

The proposal adds § 37.2-921 to the *Code of Virginia* requiring the Department of Behavioral Health and Developmental Services to give notice of Sex Offender and Crimes Against Minors Registry requirements to persons for whom registration is required prior to their release or discharge. In addition, the Department would be required to obtain from such persons all necessary registration information and forward such information to the Department of State Police on the date of the discharge or release. The proposal would require the Department of Behavioral Health and Developmental Services to notify State Police within 12 hours of discovering the escape of any civilly-committed person for whom Sex Offender and Crimes Against Minors Registry is required.

§§ 53.1-116.1 and 53.1-160.1

The proposal requires the sheriff, jail superintendent, or other jail administrator, as well as the Department of Corrections to notify State Police within 12 hours of discovering the escape of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required.

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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 added to the list of offenses requiring registration and increased the penalties for second SOR violations. In addition, the *Code* was changed to allow Juvenile and Domestic Relations courts to require a juvenile who has been adjudicated delinquent for a Registry offense to register.

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**Analysis:**

The General District Court Automated Information System (CAIS) contains the most recent data for misdemeanor violations related to failing to register or re-register as required. For fiscal years 2008 and 2009, 424 offenders who were not defined as sexually violent were convicted of a misdemeanor for a Registry violation (as the most serious offense). Of these offenders, 54% did not receive an active term of incarceration. The median sentence length for the 46% who were given a local-responsible (jail) term was 2 months.

According to the Circuit Court CAIS database for fiscal years 2008 and 2009, there were 829 felony convictions for a Registry violation under § 18.2-472.1 during this time period. For 646 of these offenders, the Registry violation was the most serious offense at sentencing. While nearly half (49%) of these offenders received a local-responsible (jail) sentence (with a median sentence of 6 months), 34% received no active term of incarceration. For the remaining 17% of offenders who were given a state-responsible (prison) term, the median sentence was one year.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** While most of the proposal provides technical changes that do not have an impact on bed space, the proposed changes to § 9.1-902 may increase the future state-responsible (prison) bed space needs of the Commonwealth. The changes may result in additional offenders being registered as sex offenders in Virginia's SOR, which, in turn, may result in additional violations of Registry provisions. However, the number of additional felony violations that may result from the proposal cannot be estimated; therefore, the magnitude of the impact on state-responsible (prison) bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the impact of the proposal on 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 § 18.2-472.1 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.** 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.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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**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; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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