



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 172

(Patron – Pogge)

LD#: 10101031

Date: 1/11/2010

Topic: Sex offenses prohibiting proximity to children

Fiscal Impact Summary:

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

- **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 § 18.2-370.2 regarding offenders who have been convicted of crimes that prohibit them from having proximity to children. Currently, qualifying offenders with a sex offense with an offense date of July 1, 2000, or after are prohibited from going, for the purpose of having any contact with children not in his custody, within 100 feet of any premises defined as a school. Qualifying offenders with an offense date of July 1, 2006, or after are prohibited within 100 feet of a child day program. With an offense of July 1, 2008, or after, qualifying offenders are prohibited within 100 feet of a public playground, athletic field or facility, or gymnasium. Under the proposal, regardless of the date of offense, all offenders with convictions for crimes that prohibit proximity to children will be prohibited from going within 100 feet of any premises defined as a school. Proximity to a child day program, a public playground, athletic field or facility, or gymnasium will still be restricted based on the date of offense.

When first enacted in 2000, the only restricted areas specified in § 18.2-370.2 were primary, secondary and high schools. The 2006 General Assembly added child day programs to the list of restricted areas and modified the definition of an offense prohibiting proximity to children to include failing to register or reregister as a sex offender if the offender had been convicted of an offense listed in this statute. The 2008 General Assembly added public playgrounds, athletic fields and facilities, and gymnasiums. Throughout the amendments, the penalty for violation of § 18.2-370.2 has remained a Class 6 felony.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2008 and 2009, there were two convictions for violations of § 18.2-370.2 during this time period. One offender received an effective sentence of 9.7 years and the other received one year to serve.

The number of offenders who have been convicted of crimes that prohibit them from having proximity to children prior to July 1, 2000 is unknown. Furthermore, the number that would violate the proximity to schools restrictions cannot be quantified.

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the applicability of § 18.2-370.2 may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated. Available data, however, reveal only two convictions under the existing provision during a recent two-year period. While the impact of the proposal on prison bed space cannot be quantified, it is likely to be small.

Local adult correctional facilities. The proposal could also increase local-responsible (jail) bed space needs of the Commonwealth. While the size of the impact cannot be quantified, it is likely to be small.

Adult community corrections programs. The proposal may increase the need for state community corrections resources. The magnitude of the impact cannot be estimated but is likely to be small.

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

Juvenile correctional centers. According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice 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; 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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