



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1091

(Patron – Hanger)

LD#: 11100740

Date: 1/13/2011

Topic: Grounds for protective orders

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 874 of the 2010 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 §§ 17.1-272, 19.2-152.8, 19.2-152.9, and 19.2-152.10 relating to protective orders. The proposal strikes language in the statutes requiring a victim to have been subjected to stalking, sexual battery, aggravated sexual battery, or a criminal offense that resulted in serious bodily injury in order for a judge or magistrate to issue a protective order, including an emergency or a preliminary protective order. The proposal then replaces the above with language that broadens the grounds upon which a protective order may be issued. Specifically, under the proposal, the grounds for a protective order to be issued would involve “conduct that causes such person to have a reasonable apprehension of death, sexual assault, or bodily injury.”

Furthermore, the proposal would require a judge or magistrate issuing the protective order to impose one or more conditions on the respondent, including prohibiting conduct that causes the protected person to have a reasonable apprehension of death, sexual assault, or bodily injury and preventing criminal offenses or conduct that may result in injury to person or property.

Analysis:

The Local Inmate Data System (LIDS) captures information on persons held in Virginia’s local and regional jails. According to fiscal year (FY) 2009 and FY2010 LIDS data, 1,507 offenders were convicted of a Class 1 misdemeanor for a first violation of a protective order under § 16.1-253.2. For these offenders, violation of the protective order was the primary (or most serious) offense. The majority of these offenders (97%) received a local-responsible (jail) term, for which the median sentence was approximately one month.

During the same time period, 54 offenders were convicted of a Class 1 misdemeanor for a second violation of a protective order involving violence within five years (as the primary offense) under § 16.1-253.2. The majority of these offenders (94%) received a local-responsible (jail) term with a median sentence of 2.0 months.

Also, during the same two years, there were 23 offenders convicted of a Class 6 felony for a third or subsequent violation of a protective order involving violence within 20 years (as the primary offense) under § 16.1-253.2. The majority of these offenders (87%) received a local-responsible (jail) term with a median sentence of 9.5 months.

Impact of Proposed Legislation:

State adult correctional facilities. By adding broadening the grounds upon which a protective order may be issued as well as the conditions that a respondent must abide by when subject to a protective order, it is possible that state-responsible (prison) bed space needs will increase. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. The proposal may increase the local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

Adult community corrections resources. Because the proposal could result in felony and misdemeanor convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for state and local adult community corrections services. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Currently, violations of protective orders under § 16.1-253.2 are not covered by the guidelines when one of these crimes is the primary (most serious) offense. However, convictions under this statute may 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 (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the proposal will not increase bed space needs in 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 874 of the 2010 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.