



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1318

(Patron – Newman)

LD#: 11102720

Date: 12/13/2010

Topic: Sex offenses prohibiting entry onto school property

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

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

Summary of Proposed Legislation:

The proposed legislation amends § 18.2-370.5 regarding sexually violent offenders (as defined in § 9.1-902) who are prohibited from entering onto school property. The proposal amends subsection A of § 18.2-370.5, which specifies that every adult convicted of a sexually violent offense shall be prohibited from entering and being present on school or child day center property, “during school hours *and* during school-related *and* school-sponsored activities,” by changing the language to “during school hours *or* during school-related *or* school-sponsored activities.”

The proposed change attempts to clarify that being on school property during school hours, during school-related functions, *or* during school-sponsored activities is a violation of § 18.2-370.5. In other words, an offender need only violate one of the three conditions to be punished for prohibited entry onto school property.

Under current *Code*, offenders convicted of a violent sexual offense may enter the premises described in subsection A only to vote or to attend classes as a student; they may also obtain a court order to gain access to such properties. Violation of this section would remain a Class 6 felony under the proposal.

Analysis:

The provisions of § 18.2-370.5 became effective for offenses committed on or after July 1, 2007. According to the Circuit Court Automated Information System (CAIS) for fiscal years 2008 and 2009, there were three convictions under § 18.2-370.5. One offender received a local-responsible (jail) sentence of two months and another received a state-responsible (prison) term of two years (for two counts of the offense). The third offender had a more serious conviction for a second or subsequent sex offender registry violation (a Class 5 felony for an offender defined as sexually violent) and was sentenced to a total of 1.5 years for the two crimes.

According to Local Inmate Data System (LIDS) data for fiscal years 2009 and 2010, seven offenders held pre- or post-trial in jail were convicted of felony violations under § 18.2-370.5 during the two-year period. Of these, six offenders (86%) received local-responsible (jail) terms with a median sentence of 1.5 months. The remaining offender, convicted of two counts of illegal entry onto school property and one count of violation of probation, received a state-responsible (prison) term of 2.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By merely clarifying the current statutory prohibitions related to sexually violent offenders entering school property, the proposal is not expected to increase the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is not expected to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to increase the need for state community corrections resources.

Virginia's sentencing guidelines. Felony convictions under § 18.2-370.5 are not covered by the sentencing guidelines as the primary (most serious) offense; however, a conviction under this section could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. 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 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 is \$0 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.