



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 624

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Albo)

LD #: 12105614

Date: 02/23/2012

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 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 and 9.1-913, relating to offenses requiring registration with the state's Sex Offender and Crimes against Minors Registry. Specifically, the proposal modifies § 9.1-902 to require juveniles over the age of 13 who are adjudicated delinquent for forcible rape (§ 18.2-61), forcible sodomy (§ 18.2-67.1), or object sexual penetration (§ 18.2-67.2) to register with the Sex Offender and Crimes against Minors Registry. This provision would apply to juveniles adjudicated on after July 1, 2012. The proposal also amends § 9.1-913 such that these offenders are exempt from having their Registry information posted on the Virginia State Police Sex Offender Registry Internet site. The proposal also includes an enactment clause indicating that the provisions of the act will not become effective unless an appropriation of general funds effectuating the purposes of the act is included in the 2012 general appropriation act that becomes law.

Currently, juveniles who are adjudicated delinquent of Registry offenses in juvenile court are not required to register; however, juveniles who were over the age of 13 at the time of the offense may be required to register if, upon motion of the Commonwealth's attorney, the court finds that the circumstances of the offense require offender registration. Under § 9.1-901, if a juvenile is tried as an adult and convicted of an offense requiring registration in circuit court, he or she is automatically required to register as a sex offender.

The General Assembly has revisited § 9.1-902 several times in recent sessions. In the 2007 session, the section was reorganized as part of an expansion of the offenses requiring registration and the information required of registrants (the legislation also restructured the penalties involving child pornography). During the 2006 session, there was an expansion of the offenses requiring registration and the penalties for second or subsequent Registry violations were increased. The 2005 and 2008 General Assemblies also expanded the offenses requiring registration. Since July 1, 2005, judges have

had the authority to require juveniles adjudicated of specified crimes to register as sex offenders if the juvenile was over the age of 13 when the offense was committed.

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 or providing false information to the Registry. In fiscal year (FY) 2010 and FY2011, 345 offenders were convicted of a misdemeanor Registry violation; in these cases, the Registry violation was the most serious offense. Of these offenders, 47.5% did not receive an active term of incarceration. For the 52.5% who were given a local-responsible (jail) term, the median sentence length was 2.0 months.

According to the Circuit Court CAIS database for FY2010 and FY2011, a felony conviction for a Registry violation under § 18.2-472.1 was the most serious offense in 582 cases. While nearly half (49.1%) of these offenders received a local-responsible (jail) sentence (with a median sentence of six months), 23.5% received no active term of incarceration. For the remaining 27.3% of offenders who were given a state-responsible (prison) term, the median sentence was 1.5 years.

Regarding the Department of Juvenile Justice (DJJ), Court Service Units serve as the point of entry into the juvenile justice system. An “intake” occurs when a juvenile is brought before a court service unit officer for one or more alleged law violations. The DJJ reports averaging 234 intake petitions for each of the last three fiscal years (FY2009 through FY2011) for a violation of §§ 18.2-61, 18.2-67.1, or 18.2-67.2 of the *Code* by a person under the age of 18. For the same three-year period, the DJJ reports averaging 24 juveniles, who were 13 years of age or older at the time of the offense, who were committed to the Department by the Juvenile and Domestic Relations District Court (J&DR) for a violation of §§ 18.2-61, 18.2-67.1, or 18.2-67.2. DJJ does not have information regarding adjudicated juveniles who have not been committed to a juvenile correctional center (JCC).

On February 1, 2008, DJJ’s Reception and Diagnostic Center began to collect information on juveniles who are required to register as sex offenders. For calendar years 2009 through 2011 (ending on December 19, 2011), there were 98 juveniles committed to the Department of Juvenile Justice who were at least 14 years of age and adjudicated delinquent for at least one sexually violent offense. Of these 98 juveniles, the Juvenile and Domestic Relations (J&DR) court required registration for twelve¹. This number does not include juveniles who were “over the age of 13” but younger than 14 years old. The number of juveniles who subsequently violate Registry requirements is not known.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the number of individuals who are required to register, the proposal may result in additional felony convictions for violations of Registry provisions. In this way, the proposal could increase the future state-responsible (prison) bed space needs of the Commonwealth. However, data are not sufficiently detailed to estimate how many additional felony convictions may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be quantified.

Local adult correctional facilities. Similarly, the magnitude of the impact on local-responsible (jail) bed space needs cannot be quantified.

Adult community corrections resources. The potential impact on community corrections resources cannot be quantified.

¹ The number of juveniles required to register does not include those committed to DJJ from circuit court and does not identify which sexually violent offense the JD&R court imposed the registration requirement.

Virginia’s sentencing guidelines. Felony convictions under § 18.2-472.1 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal’s impact 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; therefore, Chapter 890 of the 2011 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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