



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1862 (Patron – Sherwood)

LD#: 13101615

Date: 1/9/2013

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 3 of the Acts of Assembly of 2012, Special Session I, 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, relating to offenses requiring registration with the state's Sex Offender and Crimes against Minors Registry. Specifically, the proposal clarifies that offenses requiring registration include any similar offenses under the common law or codified law in effect at the time of the person's offense. Currently, § 9.1-902 states that the list of offenses requiring registration includes any similar offense under laws of any foreign country or any political subdivision thereof, the United States or any political subdivision thereof, or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted.

Currently, the first Registry violation committed by an offender who is not defined as sexually violent is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. The first Registry violation committed by a sexually violent offender is punishable as a Class 6 felony; a second or subsequent Registry violation is a Class 5 felony.

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 age 14 or older when the offense was committed.

Analysis:

The General District Court Case Management System¹ contains the most recent data for misdemeanor violations related to failing to register or re-register as required. In fiscal year (FY) 2011 and FY2012, 329 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, 49.8% did not receive an active term of incarceration. The median sentence length for the 50.2% who were given a local-responsible (jail) term was two months.

According to the Circuit Court Case Management System¹ database for fiscal years 2011 and 2012, there were 707 felony convictions for a Registry violation under § 18.2-472.1 during this time period. For 527 of these offenders, the Registry violation was the most serious offense at sentencing. While nearly half (49.7%) of these offenders received a local-responsible (jail) sentence (with a median sentence of six months), 23.7% received no active term of incarceration. For the remaining 26.6% of offenders who were given a state-responsible (prison) term, the median sentence was 1.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By adding to the list of crimes for which individuals must 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.

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 3 of the Acts of Assembly of 2012, Special Session I, 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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¹ Formerly referred to as the Court Automated Information System (CAIS).