



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1226

(Patron – Rasoul)

LD#: 14104128

Date: 1/17/2014

Topic: Stalking by electronic means

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 806 of the 2013 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 § 18.2-60.3 to expand the definition of stalking.

Under current *Code*, it is a Class 1 misdemeanor to engage in conduct on more than one occasion that is intended to instill the fear of death, injury, or sexual assault in another person or a member of his or her family or household. The penalty for a second conviction for stalking is increased from a Class 1 misdemeanor to a Class 6 felony in cases in which the offender has previously been convicted of assaulting a family or household member (§ 18.2-57.2), violating a protective order, or assaulting the victim of the current stalking offense within the last five years. A third conviction under the stalking provision within five years is a Class 6 felony. Under the proposal, the offense of stalking is expanded to include electronic transmissions that produce a visual or textual message.

Analysis:

The General District Court Case Management System (CMS) for FY2012 and FY2013 indicates that 171 offenders were convicted of a misdemeanor for stalking in violation of § 18.2-60.3 during this time period. Approximately half of these offenders (50.9%) were sentenced to a local-responsible (jail) term, for which the median sentence was 2.5 months. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

According to Circuit Court CMS data for FY2011 through FY2013, three offenders were convicted of a felony under § 18.2-60.3 as the primary, or most serious offense. While one of these offenders was sentenced to a local-responsible (jail) term of roughly five months, the remaining two offenders received state responsible (prison) sentences of two and three years, respectively.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the definition of criminal stalking, the proposal may increase the number of offenders convicted of a Class 6 felony for a second or subsequent stalking offense within five years. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional convictions that may result from the proposal cannot be estimated. Therefore, the impact of the proposal cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs of the Commonwealth. However, the impact on jail bed space needs cannot be determined.

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

Virginia's sentencing guidelines. Felony convictions under § 18.2-60.3 are not covered by the sentencing guidelines as the primary (most serious) offense. However, convictions under this statute 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 (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 806 of the 2013 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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