



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 523

(Patron – Albo)

LD#: 14101693

Date: 12/6/2013

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 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 §§ 9.1-902 and 9.1-910, 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 at the time of the offense who are adjudicated delinquent on or after July 1, 2014 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. Any person adjudicated as a juvenile and required to register under the proposal would be eligible to petition the court for the removal of his name and information from the Registry ten years after the date of the initial registration or the date of his last conviction or adjudication for (a) a violation of § 18.2-472.1 or (b) any offense for which registration is required, whichever date is later. A petition may not be filed until all court-ordered treatment, counseling, and restitution has been completed. If the court is satisfied that the petitioner person no longer poses a risk to public safety, the court must grant the petition. In the event the petition is not granted, the person would be required to wait at least 24 months from the date of the denial to file a new petition for removal from the Registry.

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, 2008, and 2013 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.

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## Analysis:

The General District Court Case Management System (CMS)<sup>1</sup> contains the most recent data for misdemeanor violations related to failing to register or re-register as required. In fiscal year (FY) 2012 and FY2013, 340 offenders were convicted of a misdemeanor for a Registry violation (as the most serious offense). Of these offenders, 44.7% did not receive an active term of incarceration to serve after sentencing. The median sentence length for the 55.3% who were given a local-responsible (jail) term was two months.

According to the Circuit Court CMS database for fiscal years 2012 and 2013, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 539 sentencing events during this time period. While more than half (56.2%) of these offenders received a local-responsible (jail) sentence (with a median sentence of six months), 22.3% did not receive an active term of incarceration to serve after sentencing. For the remaining 21.5% 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 each year during a recent three-year period (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, DJJ reports an average of 24 juveniles, who were 13 years of age or older at the time of the offense, 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 twelve<sup>2</sup>. This number does not include those juveniles who were “older than 13” but younger than 14 years old. The number of juveniles who subsequently violate Registry requirements is not known.

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## Impact of Proposed Legislation:

**State adult correctional facilities.** The proposed sex offender registration requirements for offenders adjudicated delinquent as a juvenile will likely remain in effect after the offenders reach the age of 18. Offenders who are 18 years of age or older who fail to register or re-register as required by § 9.1-902 may receive a state-responsible (prison) sentence. By increasing the number of individuals who are required to register, 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

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<sup>1</sup> Formerly referred to as the Court Automated Information System (CAIS).

<sup>2</sup> 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 J&DR court imposed the registration requirement.

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.** The sentencing guidelines cover felony violations of § 18.2-472.1 when this crime is the primary (most serious) offense in a case. No adjustment to the sentencing 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.

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**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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