



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1902

(Patron – Lopez)

LD#: 15101420

Date: 1/5/2015

Topic: Stalking by any means

Fiscal Impact Summary:

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

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

* Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal amends § 18.2-60.3, relating to 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. The proposed language clarifies that the offense of stalking includes conduct that is accomplished by any action, method, device, or means.

In addition, the proposed amendments to § 55-255.16 would allow tenants who are victims of stalking to terminate their obligations under a rental agreement in certain circumstances.

Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2013 and FY2014 indicate that 129 offenders were convicted of a misdemeanor for stalking in violation of § 18.2-60.3. Nearly half of these offenders (48.8%) were sentenced to a local-responsible (jail) term, for which the median sentence was three 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 FY2014, 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. The proposal clarifies that § 18.2-60.3 includes conduct that is accomplished by any action, method, device, or means. Since the Virginia Court of Appeals has upheld convictions under § 18.2-60.3 for telephone stalking (see, e.g., *Parker v. Commonwealth*, 1997), the current language contained in this statute is likely sufficiently broad to cover various types of conduct. Moreover, § 18.2-60.3 does not currently contain language that would restrict the applicability of the statute based on the means by which an offender places another in reasonable fear of death, criminal sexual assault, or bodily injury. As a result, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

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

Adult community corrections resources. The proposal is unlikely to affect adult community corrections programs.

Virginia's sentencing guidelines. Felony convictions under § 18.2-60.3 are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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