Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2301
(Patron – Murphy)

LD#: 15101925 **Date:** 12/31/2014

Topic: Protective orders; assault and battery

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 **

**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 2 of the 2014 Acts of Assembly, 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 §§ 16.1-253.2 and 18.2-60.4 of the *Code of Virginia*, relating to protective orders. Section 16.1-253.2 specifies criminal penalties for violations of protective orders issued pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.14, 16.1-279.1, and subsection B of § 20-103. Section 18.2-60.4 specifies penalties for any violation of a protective order issued pursuant to §§ 19.2-152.8, 18.2-152.9, and 19.2-152.10. Currently, under both §§ 16.1-253.2 and 18.2-60.4, any person who violates a protective order and assaults a protected person causing serious bodily injury is guilty of a Class 6 felony. The proposal expands the felony provisions to cover assaults resulting in any bodily injury, regardless of whether the injury is deemed serious.

Analysis:

Existing data sources do not contain sufficient detail to identify the number of instances in which an offender assaults a protected person and causes bodily injury that does not rise to the level of serious bodily injury. However, offenders affected by the proposal may be sentenced similarly to those currently convicted of a Class 6 felony under §§ 16.1-253.2 or 18.2-60.4 for assaults resulting in serious bodily injury.

According to Circuit Court Case Management System (CMS) data for fiscal year (FY) 2013 and FY2014, 15 offenders were convicted of a Class 6 felony under §§ 16.1-253.2 18.2-60.4 for assaulting a protected person and causing serious bodily injury. For four offenders convicted under § 16.1-253.2, this violation was the primary (or most serious) offense. Three of these offenders received a local-responsible (jail) term, for which the median sentence was six months. The fourth offender was given a state-responsible

(prison) sentence of one year. Two of the 15 offenders were convicted under § 18.2-60.4; the protective order violation was not the primary offense in either of the cases.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation expands the applicability of the felony provisions of §§ 16.1-253.2 and 18.2-60.4 to cover instances in which protected persons suffer less serious injuries. This may result in additional felony convictions under these provisions. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be quantified.

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

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

Virginia's sentencing guidelines. Currently, felony violations of protective orders under §§ 16.1-253.2 and 18.2-60.4 are not covered by the guidelines when one of these crimes is the primary, or most serious, offense. However, convictions under these statutes may 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 2 of the 2014 Acts of Assembly, 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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