



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 49 (Patron – Cosgrove)

LD#: 18100660

Date: 11/6/2017

Topic: Sex offenders in emergency shelters

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
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 836 of the 2017 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal adds § 9.1-906.1, regarding the presence of registered sex offenders in emergency shelters, to the *Code*. Under the proposal, any person required to register who enters any facility designated as an emergency shelter would be required to notify a member of the shelter's staff that such person is a registered sex offender. Upon notification, the emergency shelter's staff may access the state's Sex Offender and Crimes against Minors Registry for information regarding the offender, and could use such information in determining whether to make reasonable accommodations to ensure the safety of all persons residing in the shelter. However, no person could be denied entry into an emergency shelter based on his status as a registered sex offender unless such entry is otherwise prohibited by law.

The proposal also mandates that any person required to register or reregister as a sex offender who is residing in an emergency shelter must register in person with the local law-enforcement agency within three days of entering the shelter. Upon leaving the shelter, such person would be required to register any change of residence in accordance with the provisions of subsection D of § 9.1-903.

Pursuant to § 18.2-472.1, 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; for these individuals, a second or subsequent Registry violation is a Class 5 felony.

Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2016 and FY2017 indicate that 324 offenders were convicted of a Class 1 misdemeanor under § 18.2-472.1 for a Registry

violation. Of these offenders, less than half (47.2%) did not receive an active term of incarceration to serve after sentencing. The median sentence length for the 52.8% who were given a local-responsible (jail) term was two months.

According to the Sentencing Guidelines database for FY2016 and FY2017, a felony conviction for a Registry violation under § 18.2-472.1 was the primary, or most serious, offense in 444 sentencing events during this time period. More than half (58.3%) of these offenders received a local-responsible (jail) term with a median sentence of six months. Another 20.7% did not receive an active term of incarceration to serve after sentencing. The remaining 21.0% were given state-responsible (prison) terms, with a median sentence length of approximately 1.2 years.

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the circumstances in which individuals must register with the Sex Offender Registry 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 do not contain sufficient detail to estimate the number of additional felony convictions that may result if the proposal is enacted. Therefore, the magnitude of the impact cannot be determined.

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 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 quantified.

Virginia’s sentencing guidelines. Felony convictions for Registry violations under § 18.2-472.1 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 836 of the 2017 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.