



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1230

(Patron – Ebbin)

LD#: 19103582

Date: 12/27/2018

Topic: Definition of a family or household member

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 2 of the Acts of Assembly of 2018, 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 § 16.1-228 to expand the definition of “family or household member” to include aunts, step-aunts, aunts-in-law, uncles, step-uncles, uncles-in-law, nieces, nephews, and first and second cousins who reside in the same home. Also added to the definition is any individual who is in, or has been in, a dating relationship with a person. The definition of family as defined by § 16.1-228 is referenced in § 18.2-46.3 (recruitment of persons for criminal street gang), § 18.2-57.2 (assault and battery against a family or household member), § 18.2-60.3 (stalking) and § 19.2-81.3 (violation of protective orders). As such, the proposal would expand the applicability of existing felonies and misdemeanors without increasing penalties.

Analysis:

While the number of individuals who may be affected by the proposal cannot be determined, such offenders may be sentenced similarly to those who are currently convicted under existing provisions that define family or household member by referencing § 16.2-228 (see table below).

Offenders Convicted of Select Offenses, FY2017-FY2018

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Street gang recruitment (§ 18.2-46.3)	4	25.0%	0.0%	N/A	75.0%	2 years
Assault and battery against a family member (§ 18.2-57.2) ¹	11,149	61.0%	39.0%	1.5 months	0.0%	N/A

Offenders Convicted of Select Offenses, FY2017-FY2018 (continued)

Assault and battery against a family member 3 rd offense (§ 18.2-57.2)	387	16.5%	49.1%	7 months	34.4%	1.5 years
Stalking (§ 18.2-60.3(A))	172	36.6%	63.4%	2 months	0.0%	NA
Stalking, second offense within 5 years (§ 18.2-60.3(B))	3	0.0%	33.3%	8.3 months	66.7%	1.5 years
Protective order violation, felony (§ 18.2-60.4)	10	0.0%	60.0%	6 months	40.0%	1.8 years
Protective order violation, misdemeanor (§ 18.2-60.4)	618	22.5%	77.5%	1 month	0.0%	N/A

¹ A total of 11,149 offenders were convicted of a Class 1 misdemeanor under § 18.2-57.2 (as the primary, or most serious, offense) in General District Court, Juvenile and Domestic Relations Court, or Circuit Court. Of the total, 95% of the offenders were sentenced in Juvenile and Domestic Relation (JDR) Court. Percentages and median sentence length are reflective of only the JDR convictions.

Note: Analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.
Source: Supreme Court of Virginia - Circuit Court Case Management System (CMS), FY2017-FY2018
Supreme Court of Virginia - General District Court Case Management System (CMS), FY2017-FY2018
Supreme Court of Virginia – Juvenile & Domestic Relations Case Management System (CMS), FY2017-FY2018
Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2017-FY2018

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the definition of family and household members, the proposal may result in additional felony convictions and increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases 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 beds cannot be quantified.

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

Adult community corrections programs. 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 under § 18.2-57.2 are currently covered by sentencing guidelines. Other felony convictions impacted by the change in definition under the proposed sections of the *Code* are not covered by the sentencing guidelines as the primary, or most serious, offense. Such convictions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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 2 of the Acts of Assembly of 2018, 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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