



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1620 (Patron – Obenshain)

LD#: 19102950

Date: 12/28/2018

Topic: Protective orders

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 §§ 16.1-253.2 (C) and 18.2-60.4 (C) of the *Code of Virginia*, relating violations of protective orders. Currently, under §§ 16.1-253.2 (C) and 18.2-60.4 (C), it is a Class 6 felony if the respondent furtively enters the home of any protected party while the party is present, or by entering and remaining in the home of the protected party until the party arrives.

The proposal expands §§ 16.1-253.2 (C) and 18.2-60.4 (C) such that any person subject to a protective order who enters the lands, buildings, or premises owned or leased by a protected party while the protected party is present, or enters and remains in or on the lands, buildings, or premises owned or leased by the protected party until the party arrives, is guilty of a Class 6 felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2017 and FY2018, 21 offenders were convicted of a Class 6 felony violation of §§ 16.1-253.2 (C) or 18.2-60.4 (C) for entering the home of any protected party while the party is present or entering and remaining in the home until the party arrives. This offense was the primary offense in 14 cases. The majority (78.6%) received a local-responsible (jail) term with a median sentence of six months. One offender was sentenced to serve state-responsible (prison) term of two years. The remaining two offenders did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of existing felony offenses under §§ 16.1-253.2 (C) and 18.2-60.4 (C), the proposal may 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. As a result, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may also 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 community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. Felony violations of protective orders under §§ 16.1-253.2 (C) and 18.2-60.4 (C) are not covered by the guidelines when these crimes are 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 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.

protord05_2950