



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 793

(Patron – Askew)

LD#: 20102528

Date: 12/11/2019

Topic: Removal of tracking device by a civilly committed sexually violent predator

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, likely to be small**
- **Juvenile Detention Facilities:**
Cannot be determined, likely to be small**

**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 854 of the 2019 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 37.2-918 of the *Code of Virginia*, relating to sexually violent predators placed on conditional release pursuant to Chapter 9 of Title 37.2. Currently, any sexually violent predator who leaves the state without permission or fails to return is guilty of a Class 6 felony. Under the proposal, any sexually violent predator who alters, removes or destroys any tracking devices would also be guilty of a Class 6 felony.

Analysis:

Existing data sources do not contain sufficient detail to estimate the number of sexually violent predators who, in the course of being monitored, alter, remove or destroy any tracking devices. A review of fiscal year (FY)2014-FY2019 Circuit Court Case Management System data identifies one conviction for a sexually violent predator leaving the state without permission, in violation of § 37.2-918. The felony was a companion charge to a failure to register as a violent sex offender. The defendant was sentenced to a state-responsible (prison) term of 13 months on both offenses to run concurrently. It could not be determined if the conviction was made, in part, due to the removal, etc., of a tracking device.

According to FY 2014-FY 2019 Sentencing Revocation and Probation Violation Sentencing Guidelines data, there were 60 offenders on probation for a conviction of failure to register as sex offenders who

were cited for a tracking device violation. There is no indication that any of these defendants were previously civilly committed as sexually violent predators. Under this proposal, altering, removing or destroying any tracking devices could result in new felony convictions for defendants who had been placed on conditional release as sexually violent predators.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the circumstances in which an individual may violate the provisions of § 37.2-918, the proposal may result in additional felony convictions for altering, removing or destroying a tracking device. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. 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 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 programs. The proposal impacts individuals who are already being monitored or supervised and should have little or no impact on adult community corrections programs.

Virginia's sentencing guidelines. Felony convictions under § 37.2-918 are not covered by the current sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could 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 but is expected to be small.

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 but is expected to be small.

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 854 of the 2019 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.

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