



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 579 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Howell)

LD#: 20107056

Date: 1/30/2020

Topic: Sex Offender and Crimes Against Minors Registry

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
Cannot be determined*
- **Juvenile Detention Facilities:**
Cannot be determined*

*Provided by the Department of Juvenile Justice

Summary of Proposed Legislation:

The proposal makes numerous changes to the provisions governing the Sex Offender and Crimes Against Minors Registry. The proposal changes the number of classifications of offenders who are required to register from two to three to match the number of classifications under federal law and redesignates the classifications as Tier I, Tier II, and Tier III offenses. All offenses designated as sexually violent for registration purposes under current law and placed into Tier III of the proposed structure. Registration requirements, and frequency of registration, remain the same for these offenders. The proposal eliminates the requirement for lower-level offenders (Tiers I and II) to reregister annually; however, these offenders would still be required to report to local law enforcement every two years to be photographed and must continue to reregister in person following any change of name or residence. The proposal streamlines the reregistration process and allows offenders to electronically verify their registration information.

The proposal does not change the penalties for Registry violations. Under § 18.2-472.1, the first Sex Offender Registry violation committed by a Tier I or II offender (i.e., someone who is not defined as sexually violent under current law) is punishable as a Class 1 misdemeanor; a second or subsequent Registry violation is a Class 6 felony. For a Tier III offender (one who is sexually violent under current law), the first Registry violation is a Class 6 felony, while a subsequent violation is a Class 5 felony.

Analysis:

Existing data do not contain sufficient detail to determine the number of cases that may be affected by the proposal. Sentencing patterns for offenders convicted for Registry violations (§ 18.2-472.1) are shown in the table below.

**Offenders Convicted of Sex Offender and Crimes Against Minors Registry Violations (§ 18.2-472.1)
FY2018-FY2019**

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Median Jail Sentence	Percent Sentenced to Prison	Median Prison Sentence
Sex Offender Registry violation: Not violent category, 1 st offense ¹	290	47.6%	52.4%	2 mos.	na	na
Sex Offender Registry violation: Not violent category, 2 nd or subsequent offense ²	66	37.9%	53.0%	6 mos.	9.1%	1.5 yrs.
Sex Offender Registry violation: Violent category, 1 st offense ²	251	22.3%	66.1%	6 mos.	11.6%	1.0 yrs.
Sex Offender Registry violation: Violent category, 2 nd or subsequent offense ²	211	10.4%	63.0%	6 mos.	26.5%	1.3 yrs.

Note: Analysis is based on sentencing events in which the specified offense was the primary, or most serious, offense.

Sources: ¹ Supreme Court of Virginia - General District Court Case Management System (CMS), FY2018-FY2019;

² Virginia Criminal Sentencing Commission - Sentencing Guidelines Database, FY2018-FY2019

Impact of Proposed Legislation:

State adult correctional facilities. Because it eliminates the requirement for lower-level offenders to reregister annually and streamlines the registration process, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is unlikely to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to impact adult community corrections resources.

Virginia's sentencing guidelines. Felony convictions for Registry violations (§ 18.2-472.1) are covered by the sentencing 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 an 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.