



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 451 Amendment in the Nature of a Substitute (Patron Prior to Substitute – Bennett-Parker)

LD#: 22106970

Date: 02/24/2022

Topic: Venue for stalking

Fiscal Impact Summary:

<ul style="list-style-type: none"> • State Adult Correctional Facilities: \$50,000 * • Local Adult Correctional Facilities: Cannot be determined • Adult Community Corrections Programs: Cannot be determined 	<ul style="list-style-type: none"> • Juvenile Direct Care: Cannot be determined ** • Juvenile Detention Facilities: Cannot be determined ** <p>**Provided by the Department of Juvenile Justice</p>
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* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends § 18.2-60.3, relating to stalking. Currently, it is a Class 1 misdemeanor to engage in conduct that is intended to instill in the victim the fear of death, sexual assault, or bodily injury to that person or his or her family or household member. The penalty for a second conviction for stalking within five years is a Class 6 felony. The proposal clarifies that the venue for prosecution may be in any jurisdiction within the Commonwealth where the conduct occurred. The proposed language may allow for prosecution in the jurisdiction where the person at whom the conduct is directed resides or resided at the time of receiving a communication that placed him or her in reasonable fear of death, criminal sexual assault or bodily injury. This change may allow for prosecution in Virginia of individuals who send such communications from outside Virginia to victims within the Commonwealth.

Analysis:

General District Court Case Management System (CMS) data for fiscal year (FY) 2020 and FY2021 indicate that 107 offenders were convicted of a misdemeanor for stalking in violation of § 18.2-60.3. Of these offenders, 43.0% were given a local-responsible (jail) term for which the median sentence was two months. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

Juvenile and Domestic Relations (JDR) Court CMS data for the same period indicates that 77 offenders were convicted under § 18.2-60.3 for stalking. The majority (66.2%) of these offenders were sentenced to a local-responsible (jail) term. The median sentence in these cases was also two months.

According to Circuit Court CMS data for FY2020 and FY2021, four offenders were convicted of a Class 6 felony under § 18.2-60.3(B) as the primary, or most serious, offense. Two of the offenders received local-responsible (jail) terms with a median sentence of 8.6 months, while the remaining two offenders received state-responsible (prison) sentences of 2.0 and 3.8 years, respectively.

Impact of Proposed Legislation:

State adult correctional facilities. Should it expand prosecutions for stalking to individuals sending communications from outside Virginia to victims within the state, the proposal may result in additional Class 6 felony convictions for second or subsequent stalking offenses. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of offenders who would be convicted of a felony due to the proposal. Therefore, 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. Because the number of new convictions resulting from the proposal cannot be estimated, the impact on jail bed space needs 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. Convictions under § 18.2-60.3 are not covered by the Sentencing Guidelines when the offense is the primary, or most serious, offense in a case. 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 would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) 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 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 552 of the Acts of Assembly of 2021, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.