



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1368

(Patron – Taylor)

LD#: 24104107

Date: 01/10/2024

Topic: Sex offenses prohibiting proximity to children in a state park

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: None (\$0)** • Juvenile Detention Facilities: None (\$0)** <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 1 of the Acts of Assembly of 2023, 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 § 18.2-370.2, and requires that when an offense that prohibits proximity to children occurs on or after July 1, 2024, the sentence shall forever prohibit the defendant from going, for the purpose of having any contact whatsoever with children who are not in his custody, within 100 feet of the premises of any area of a state park where the defendant knows or has reason to know that children are present. As proposed a violation would be a Class 6 felony.

Currently, under § 18.2-370.2, qualifying offenders are prohibited from going within 100 feet of any premises defined as a school (primary, secondary, or high school), child day program, or public playground, athletic field or facility, or gymnasium. The violation is a Class 6 felony punishable by one to five years imprisonment.¹

Analysis:

Existing data sources do not contain sufficient detail to identify the number of individuals who would be affected by the proposal. However, affected offenders may be sentenced similarly to those currently convicted of a Class 6 felony under the existing § 18.2-370.2.

¹ Under current law, the offense defined in § 18.2-370.2 is ineligible for the enhanced sentence credits specified in § 53.1-202.3; therefore, individuals convicted of under this section must serve a minimum of 85% of the sentence ordered by the court. The proposed legislation does not change the earned sentence credits available to offenders convicted of these felonies.

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2018 through FY2023, four offenders were convicted of felonies under § 18.2-370.2 (prohibiting proximity to children) during the six-year period. It was the primary, or most serious, offense in all the cases. All four offenders were given local-responsible (jail) sentences with a median sentence of four months.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing felony, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated; therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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. Because the proposal could result in felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. The potential impact on community corrections programs cannot be determined.

Virginia’s Sentencing Guidelines. Convictions under the existing § 18.2-370.2 are not covered by the Sentencing Guidelines as the primary (most serious) offense. Such convictions, however, could augment the Guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. Felony offenses in § 18.2-370.2 are not defined as violent under § 17.1-805(C) for the purposes of the Guidelines. No adjustment to the Guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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 1 of the Acts of Assembly of 2023, 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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