



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 550 (Patron – Bell)

LD#: 20101071

Date: 1/06/2020

Topic: Dating relationship abuse

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 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 § 16.1-228 to define “dating relationship abuse” and expands the class of persons who are eligible to obtain a protective order in cases of family abuse to include those who are in a dating relationship and have been subjected to dating relationship abuse. The proposal also expands the crime of assault and battery against a family or household member (§ 18.2-57.2) to include persons in a dating relationship.

Currently, under § 18.2-57.2, assault and battery against a family or household member is punishable as a Class 1 misdemeanor. The penalty is elevated to a Class 6 felony if it is alleged in the warrant, petition, information or indictment that the offender has been previously convicted of any two of the specified offenses against a family or household member.

Under § 16.1-253.2¹, many violations of protective orders are punishable as a Class 1 misdemeanor. If an individual is convicted of a second offense of violating a protective order within five years of the prior conviction when either offense was based on an act or threat of violence, a mandatory minimum term of confinement of 60 days applies. Any person convicted of a third or subsequent offense of violating a

¹ Protective orders issued pursuant to §§ 16.1-253.1, 16.1-253.4, and 16.1-279.1 are punishable under § 16.1-253.2 if the protective order provision(s) violated prohibit(s) the subject from: “(i) going or remaining upon land, buildings, or premises; (ii) further acts of family abuse; or (iii) committing a criminal offense, or which prohibit(s) contacts by the respondent with the allegedly abused person or family or household members of the allegedly abused person as the court deems appropriate,” or for any of the other conditions listed in this paragraph. Otherwise, violations under §§ 16.1-253.1, 16.1-253.4, and 16.1-279.1 are punishable as contempt of court.

protective order in 20 years (with at least one involving an act or threat of violence) is guilty of a Class 6 felony that requires a six-month mandatory minimum term of incarceration. Furthermore, it is a Class 6 felony if the subject 1) violates the protective order while knowingly armed with a firearm or other deadly weapon, 2) commits an assault and battery upon any protected party resulting in bodily injury, or stalks any protected party, or 3) 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.

Analysis:

While the number of individuals who may be convicted as a result of the proposal cannot be determined, such offenders may be sentenced similarly to those who are currently convicted under the relevant *Code* sections.

Offenders who commit violations of protective orders issued under §§ 16.1-253.1, 16.1-253.4, or 16.1-279.1 are subject to the penalties provided in § 16.1-253.2². A review of FY2018 and FY2019 Circuit Court Case Management System (CMS) data indicates that 60 offenders were convicted for a felony under § 16.1-253.2 (as the primary, or most serious, offense). Most (60%) of the offenders received a local-responsible (jail) term for which the median sentence was six months. Another 30% received a state-responsible (prison) term with a median sentence of 1.6 years. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

Furthermore, Juvenile & Domestic Relations Court CMS data for the same two-year period indicate that 2,749 offenders were convicted of a Class 1 misdemeanor under § 16.1-253.2. The majority (80.6%) of offenders received a jail term with a median sentence of 15 days. The remaining offenders did not receive an active term of incarceration to serve after sentencing.

Based on General District Court, Juvenile & Domestic Relations Court, and Circuit Court CMS data, a total of 11,046 offenders were convicted of a Class 1 misdemeanor under § 18.2-57.2 for assault and battery of a family or household member (as the primary, or most serious, offense). Of the total, 95% of the offenders were sentenced in Juvenile & Domestic Relations (JDR) Court. Among those sentenced in JDR Court, 37.0% received a jail term with a median sentence of 1.3 months. Most offenders (63.0%) did not receive an active term of incarceration after sentencing.

According to FY2018 and FY2019 Sentencing Guidelines data, 404 offenders were convicted of a Class 6 felony under § 18.2-57.2 for a third or subsequent assault and battery against a family or household member (as the primary, or most serious, offense). Of these offenders, 36.1% received a prison term for which the median sentence was 1.5 years. Half (49.5%) were given a jail term with a median sentence of seven months. The remaining 14.4% did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it potentially increases the number of protective orders issued and expands the applicability of existing felony offenses, 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. Therefore, the magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may also increase the local-responsible (jail) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be determined.

² Assuming that the protective order condition(s) violated meet(s) a condition for punishment under § 16.1-253.2, as laid out in the summary section of this analysis.

Adult community corrections programs. Because the proposal could result in misdemeanor and felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. Felony convictions under § 18.2-57.2 are currently covered by the sentencing guidelines. Felony convictions under § 16.1-253.2 are not covered by the guidelines as the primary, or most serious, offense; however, these convictions could augment the guidelines recommendation if the most serious offense at sentencing is covered by the 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 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 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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