



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 349

(Patron – Albo)

Date Submitted: 12/15/03

LD #: 04-0849328

Topic: Assault and battery of probation and parole officers

Proposed Change:

The proposal amends § 18.2-57 to explicitly state that assault and battery of a probation and parole officer is subject to the same penalties that apply to assaults on law enforcement officers. Under subsection C of the current § 18.2-57, assault and battery of a law enforcement officer is punishable as a Class 6 felony and carries a mandatory, minimum term of confinement of six months.

According to the existing § 18.2-55, it is unlawful for any accused prisoner, probationer or parolee to knowingly inflict bodily injury upon a probation or parole officer engaged in the performance of his duty; violation is punishable as a Class 5 felony, but no mandatory minimum penalty is specified. This section of the *Code* was amended in 1999 to specify the powers and duties of probation and parole officers as defined in §§ 16.1-237 or 53.1-145. It was amended again in 2001 to ensure that local pretrial services officers and probation officers affiliated with a local community-based program would be afforded the same protection. However, § 18.2-55 applies only in cases involving bodily injury and does not address assaults upon probation and parole officers by individuals who are not prisoners, probationers or parolees. Nonetheless, other provisions in existing *Code* apply to the assault crimes regardless of the status of the victim: simple assault or assault and battery is defined as a Class 1 misdemeanor (§ 18.2-57(A)), while malicious injury and unlawful injury (§ 18.2-51) are defined as a Class 3 felony and a Class 6 felony, respectively.

Data Analysis:

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 693 offenders were convicted of assault and battery of a law enforcement officer, firefighter or correctional officer under § 18.2-57(C) as the primary (or most serious) offense in a sentencing event. Of these, over half (52%) received a local-responsible (jail) term; however, 42% received a state-responsible (prison) term, with a median sentence of 1.5 years (see *Background Sentencing Information* below).

In addition, 53 offenders were convicted of inflicting bodily injury on a probation officer (as the primary offense) in violation of § 18.2-55; the majority of these individuals (83%) received prison terms, with a median sentence of two years.

The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.

Virginia's sentencing guidelines cover felony convictions under §§ 18.2-55 and 18.2-57(C), as well as attempts and conspiracies to commit any of those crimes.

Background Sentencing Information

Felony Crimes	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Assault by accused prisoner, probationer, etc (§ 18.2-55)	53	4%	13%	83%	2.0 yrs.
Assault and battery - law enforcement (§ 18.2-57(C))	693	6%	52%	42%	1.5 yrs.

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database.

Impact of Proposed Legislation:

The proposal's expansion of § 18.2-57(C) to cover probation and parole officers may have an impact on the state-responsible (prison) bed space needs of the Commonwealth. Although assaults on probation and parole officers that do not result in injury can be prosecuted as Class 1 misdemeanors under § 18.2-57(A), the proposed legislation would punish such assaults as Class 6 felonies and require the imposition of a six-month minimum term. The databases available to the Commission are insufficient to provide information on the number of cases that may be affected by the proposed legislation. Therefore, the impact of the proposal cannot be quantified.

No adjustment to the guidelines would be necessary under the proposal.

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 and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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