



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 640

(Patron – Abbitt)

Date Submitted: 12/5/03

LD #: 04-1118200

Topic: Malicious bodily injury to a law enforcement officer

Proposed Change:

The proposal amends § 18.2-51.1 to make malicious or unlawful bodily injury of any game warden appointed pursuant to § 29.1-200 subject to the same penalties that apply when the victim is a law enforcement officer, firefighter or emergency medical service provider.

Prior to July 1, 1997, malicious wounding of a law enforcement officer was a Class 3 felony punishable by imprisonment for a period of five to twenty years. Since July 1, 1997, malicious wounding of a law enforcement officer is punishable by imprisonment for a period of not less than five years nor more than thirty years and requires a two-year mandatory minimum sentence. Unlawful wounding of a law enforcement officer is a Class 6 felony, but a one-year mandatory minimum sentence is required.

Data Analysis:

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 60 offenders were convicted of malicious or unlawful wounding of a law enforcement officer under § 18.2-51.1 as the primary (most serious) offense in a sentencing event (see *Background Sentencing Information* below). There were 23 convictions for malicious wounding of a law enforcement officer. Four offenders (17%) received local-responsible (jail) sentences, while the remaining 19 offenders (83%) were sentenced to state-responsible (prison) terms. The median prison sentence for the state-responsible cases was three years (excludes three cases sentenced for offenses committed prior to July 1, 1997). Additionally, 37 offenders were convicted of unlawful wounding of a law enforcement officer. Of these, 8 (22%) were sentenced to probation, 13 (35%) received local-responsible (jail) terms, and 16 (43%) received state-responsible (prison) terms, with a median sentence of 1.5 years. This data include attempted and conspired crimes.

Background Sentencing Information

Felony Crimes	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Malicious injury to law enforcement/rescue personnel	23	0%	17%	83%	3.0 yrs.
Unlawful injury to law enforcement/rescue personnel	37	22%	35%	43%	1.5 yrs.

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

Impact of Proposed Legislation:

The proposed legislation may have an impact on the bed space needs of the Commonwealth. This proposal adds game wardens to the list of potential assault victims covered by § 18.2-51.1. However, the databases available to the Commission are insufficient to provide information on the additional number of convictions that may accrue under the proposed legislation. Therefore, the effect of the proposal cannot be quantified.

Virginia's sentencing guidelines cover convictions under § 18.2-51.1, as well as attempts and conspiracies to commit any of those crimes. However, no adjustment to the guidelines would be necessary under the proposal.

The Department of Juvenile Justice (DJJ) reports that the proposed change to § 18.2-51.1 could result in a Juvenile Correctional Center (JCC) bed space impact. Currently, a ward committed to DJJ for unlawful injury under § 18.2-51.1, would have a minimum Length of Stay (LOS) range of 6 to 12 months. If a ward were to be committed for the same act, under the malicious injury portion of the proposed § 18.2-51.1, the minimum LOS range would become 18 to 24 months. DJJ, however, does not believe that the bed space needs of its JCC's will be affected by the proposal as this crime is unlikely to be committed by juveniles.

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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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.