



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 677 ***As Engrossed with Amendments*** ***(Patron – Rerras)***

Date Submitted: 1/21/04

LD #: 04-8429804

Topic: Assault and battery of volunteer firefighters

Proposed Change:

The proposal amends § 18.2-57 to add bona fide volunteer firefighters and lifesaving and rescue squad members regardless of whether the governing body of the jurisdiction has adopted a resolution recognizing such volunteers as employees. Under the proposal, assault and battery of any volunteer firefighter or lifesaving or rescue squad member would be subject to the same penalties that currently apply to assaults on law enforcement officers, firefighters as defined in § 65.2-102, correctional officers and Department of Corrections (DOC) employees directly involved in the care or supervision of inmates. This offense is punishable as a Class 6 felony and carries a six-month mandatory minimum term of confinement.

In 1997, § 18.2-57 was amended to provide enhanced penalties for assaults on law enforcement officers or firefighters as defined in § 65.2-102. Under § 65.2-102, “firefighter” means all (i) salaried firefighters, special forest wardens, emergency medical technicians, lifesaving and rescue squad members, and arson investigators and (ii) volunteer firefighters and lifesaving or rescue squad members, if the governing body of the jurisdiction in which the volunteer fire company or volunteer lifesaving or rescue squad is located has adopted a resolution acknowledging its members as employees.

In 1999, § 18.2-57 was revised again to cover assaults on correctional officers or DOC employees involved in the care or supervision of inmates in the custody of the Department.

Data Analysis:

According to fiscal year (FY) 1998-2001 Pre/Post-Sentence Investigation (PSI) data, 1,005 offenders were convicted of assault and battery of a law enforcement officer, firefighter or Corrections employee under § 18.2-57 as the primary (or most serious) offense in a sentencing event. There was a substantial increase in the number of convictions from the first year of the law’s implementation (FY1998) to the second year (FY1999), followed by another increase in FY2000, when assaults on correctional officers and DOC employees were included. There was a small increase in the percentage of offenders receiving a state-responsible (prison) term in FY2000 (from 37% to 45%). The median sentence length for offenders sent to prison increased from 1 year in FY1999 to 1.5 years in FY2000, with median prison sentence of 1.3 years in FY2001 (see *Background Sentencing Information* below).

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.

Background Sentencing Information

A&B on law enforcement officer, firefighter, etc. Fiscal Year (FY):	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
1998*	74	5%	58%	37%	1.1 yrs.
1999	240	9%	54%	37%	1.0 yrs.
2000**	327	7%	48%	45%	1.5 yrs.
2001**	364	4%	56%	40%	1.3 yrs.

Data Source: FY1998-2001 Pre/Post-Sentence Investigation (PSI) database.

* First year of implementation.

** Includes assaults on correctional officers and DOC employees.

Impact of Proposed Legislation:

The proposed legislation may have an impact on the bed space needs of the Commonwealth. This proposal adds volunteer firefighters and other volunteer emergency service providers not already included to the list of potential assault victims covered by § 18.2-57(C). 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 § 18.2-57(C), as well as attempts and conspiracies to commit any of those crimes. 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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