



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1016
Engrossed
(Patron Prior to Engrossment – Hurt)

LD #: 06-1194160

Date: 2/15/2006

Topic: Assault and battery of a justice, judge, magistrate or clerk of court

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 18.2-57(C) to make assault and battery of a justice or judge of any Virginia court, a clerk of court, or a magistrate subject to the same penalties that apply when the victim is a law enforcement officer, firefighter or emergency medical service provider. Since July 1, 1997, assault and battery of a law enforcement officer has been a Class 6 felony with a six-month mandatory, minimum term of confinement.

Currently, under § 18.2-57(A), simple assault or assault and battery of a person who is not a law enforcement officer, firefighter or emergency medical service provider is a Class 1 misdemeanor. In addition, under § 18.2-456(2), committing or threatening to commit violence against a judge, court officer, juror or witness is a contempt of court crime punishable by up to ten days incarceration.

Although not involving battery, § 18.2-460(C) currently defines the threat of bodily harm or attempting to intimidate certain persons, including a judge, justice or magistrate as a Class 5 felony.

Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, 902 offenders were convicted of a felony for an assault and battery of a law enforcement officer, firefighter or medical service provider under § 18.2-57(C). These offenses were completed crimes and in each case, the assault was the primary, or most serious, offense in a sentencing event. Most offenders (59%) received a local-responsible (jail) sentence. Nearly 39% received a state-responsible (prison) term (median sentence of 18 months). The PSI data revealed no convictions for certain threats of bodily harm under § 18.2-460(C).

According to the FY2003 and FY2004 Local Inmate Data System (LIDS), 6,024 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor for assault or assault and battery under § 18.2-57(A); nearly all of these offenders (94%) received a local-responsible (jail) term (median sentence of one and one-half months).

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation may have an impact on the bed space needs of the Commonwealth. The databases available to the Commission are insufficiently detailed to identify the number of assaults committed against justices, judges, magistrates or clerks of court. Due to the fact that no convictions were observed for threats of bodily harm under § 18.2-460(C), this number is thought to be very small. Therefore, the number of new felony convictions that may accrue due to the proposal and the resulting impact on state-responsible (prison) beds is likely to be negligible.

Local adult correctional facilities. The proposal may have an impact on local-responsible (jail) bed space needs, but this effect is expected to be negligible.

Adult community corrections programs. Because the proposal may result in additional offenders placed on community supervision (or lengthier supervision periods for offenders already in the community), it may have an impact on community corrections resources. The potential impact on adult community corrections cannot be determined.

Virginia's sentencing guidelines. Felony convictions under § 18.2-57 are covered by the sentencing guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

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

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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