



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1540

Amendment in the Nature of a Substitute

(Patron Prior to Substitute – Dudley)

LD#: 06-1395298

Date: 1/31/2006

Topic: Tampering with waterworks

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal adds § 18.2-46.7:01 relating to tampering with waterworks. Any person who maliciously tampers with a waterworks, as defined by § 32.1-167, is guilty of a Class 3 felony. Any person who unlawfully but not maliciously tampers with a waterworks is guilty of a Class 6 felony. For the purposes of this section, “tamper” means to introduce any hazardous physical, chemical, biological, or radiological substance or matter into a waterworks with the intention of harming people.

Under subsection A of the existing § 18.2-46.5, any person who commits or conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such an act may be punished by life imprisonment or a term of imprisonment of not less than twenty years. “Base offense” means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent required to commit an act of terrorism. If the maximum penalty for the base offense is a term of imprisonment or incarceration in jail of less than twenty years, the offender is guilty of a Class 3 felony under subsection B of the existing § 18.2-46.5.

Under the existing § 18.2-54.1, if any person administers or attempts to administer any poison or destructive substance in food, drink, or medication, or poisons any spring, well, or reservoir of water with intent to kill or injure another person, he shall be guilty of a Class 3 felony.

Analysis:

Based on fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, no offenders held pre- or post-trial in jail were convicted of crimes involving violations of §§ 18.2-46.5 or 18.2-54.1.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation creates two new felony offenses involving tampering with a waterworks. These offenses may currently be covered under other statutes. The proposal may increase the state-responsible (prison) bed space needs of the Commonwealth; however, the magnitude of the potential impact cannot be determined.

Local adult correctional facilities. The proposal may have an impact on local-responsible (jail) bed space; however, the magnitude of the potential impact cannot be determined.

Adult community corrections programs. The impact on adult community corrections programs cannot be determined.

Virginia's sentencing guidelines. The new felony offenses would not be covered by Virginia's sentencing guidelines as the primary offense (most serious), but may augment the guidelines recommendation if a covered offense is the most serious at conviction. Convictions under § 18.2-46.5 are not covered but also may augment the guidelines recommendation. Convictions under § 18.2-54.1 are covered under the Assault guidelines. No adjustment to the sentencing guidelines would be 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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