



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 180

(Patron – McEachin)

LD#: 06-4234410

Date: 12/12/2005

Topic: Accessory after the fact

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
At least \$2,442,521 (102 beds)
- **Local Adult Correctional Facilities:**
-\$4,724 (.50 bed)
- **Adult Community Corrections Programs:**
Cannot be determined

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

Summary of Proposed Legislation:

Amends § 18.2-19 to increase the penalty of accessory after the fact from a Class 1 misdemeanor to a Class 6 felony and to remove language that excludes certain persons from being convicted as an accessory after the fact. Currently, a person cannot be convicted of accessory after the fact if they assist an offender (principle felon or accessory before the fact) avoid or escape prosecution and are related to the offender as a husband or wife, parent or grandparent, child or grandchild, brother or sister, or servant.

Analysis:

According to fiscal years (FY) 2003 and 2004 of the Local Inmate Data System (LIDS), there were 1,064 offenders held pre- or post-trial convicted of accessory after the fact as the most serious offense at conviction. Nearly all (93%) were sentenced to local-responsible (jail) term with a median sentence of 60 days. The remaining seven percent received no active term of incarceration.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty from a Class 1 misdemeanor to a Class 6 felony, the proposal will increase the state-responsible (prison) bed space needs. The proposal also expands who may be prosecuted for as an accessory after the fact by removing an exemption for certain family members or servants of the offender (principle felon or accessory before the fact). The impact is estimated to be at least 102 beds prison beds by FY2012.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY07	FY08	FY09	FY10	FY11	FY12
51	86	95	98	100	102

Local adult correctional facilities. Using the same methodology, the impact of the proposal on local-responsible (jail) bed space needs is estimated to be reduced by less than a bed (.50) by FY2012 (state savings: \$4,724; local savings: \$4,355).

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY07	FY08	FY09	FY10	FY11	FY12
2	2	1	0	0	0

Adult community corrections programs. The number of offenders placed in adult community corrections programs is not expected to change; however, the timing of the need may be delayed while the offender serves a longer sentence for the felony conviction.

Virginia's sentencing guidelines. Convictions under § 18.2-19 are not 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. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice (DJJ) reports that, if the proposal is enacted, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would change from a range of 3 to 6 months up to 6 to 12 months. Additionally, because the proposal increases the penalty for an existing crime from a misdemeanor to a felony, a juvenile adjudicated for this crime would be eligible automatically for commitment, since existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication or has accumulated a total of four Class 1 misdemeanor adjudications. DJJ cannot determine the extent of the impact that the proposal will have on Juvenile Correctional Center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the bed space needs of juvenile detention facilities cannot be determined.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$2,442,521 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.

Assumptions underlying the analysis include:

General Assumptions

1. State and local responsibility is based on §53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2005.
2. New cases representing state-responsible sentences were based on the admissions forecast as approved by the Secretary's Committee on Inmate Forecasting in July 2005.
3. Cost per prison bed was assumed to be \$23,966 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2004 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$26.03 per day or \$9,506 per year. The local cost was calculated by using the daily expenditure cost of \$54.37 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$23.99 per day or \$8,763 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

Assumptions relating to sentence lengths

1. The impact of the proposed legislation, which would be effective on July 1, 2006, is phased in to account for case processing time.

2. Upon examining the charging information for those convicted for accessory after the fact, and excluding those whose charge was as accessory, it was found that 87% had been charged with a drug felony. To gauge the impact, sentences were randomly selected from Class 6 drug felony offenses.
3. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2004. Upon examining the charging information for those convicted for accessory after the fact, and excluding those whose charge was as accessory, it was found that 87% had been charged with a drug felony, therefore the rate for other drug offenders was used; this rate was 10.97%.

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