



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 904

(Patron – Iaquinto)

LD #: 06-1276342

Date: 1/5/2006

Topic: Assault and battery or threat concerning judicial participants

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 § 18.2-59.1 to the *Code of Virginia* to make assault, battery, and threats concerning judicial participants a Class 5 felony with a six-month mandatory minimum term of confinement. The proposal states that any person who commits an assault, or assault and battery, or threatens to kill or injure a judge, juror, witness, officer of the court, or an immediate family member of a judge, juror, witness, or officer of the court, with respect to any proceeding in such court would be subject to conviction under the *Code* section.

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. Simple assault of a law enforcement officer, firefighter or emergency medical service provider under § 18.2-57(C) is a Class 6 felony with a six-month mandatory minimum term of confinement.

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 felony 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) term with a median sentence of 7 months. 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), there were 49 offenders convicted of contempt of court under § 18.2-456(2) for committing or threatening to commit violence

against a judge, court officer, juror or witness. The majority of these offenders (96%) received a local-responsible (jail) term with a median sentence of 10 days, the maximum penalty under the statute. LIDS data for the same time period also reveal that there were 6,024 offenders held pre- or post-trial in jail who 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 judicial participants. Therefore, the number of new felony convictions that may accrue due to the proposal and the resulting impact on state-responsible (prison) beds cannot be determined.

Local adult correctional facilities. Because the proposal calls for a six-month mandatory minimum term of confinement, there may be an impact on local-responsible (jail) bed space needs. However, the actual impact cannot be determined.

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 § 18.2-59.1 would not be 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 may increase juvenile correctional center (JCC) bed space needs, but the magnitude cannot be determined. Under the Length of Stay (LOS) guidelines, the minimum length of stay range would be six to 12 months.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal may increase the bed space needs of juvenile detention facilities, but the magnitude cannot be quantified.

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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