



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 570

(Patron – McDougle)

LD #: 06-0016408

Date: 8/30/2005

Topic: Possession of Schedule I or II drugs

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
\$1,895,485 (200 beds) in June 2012
- **Adult Community Corrections Programs:**
None (\$0)

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

Summary of Proposed Legislation:

The proposal amends § 18.2-250 to add a 45-day mandatory minimum penalty for the possession of a Schedule I or II drug. The proposal also requires the court to order each offender convicted of this crime to undergo drug education and rehabilitation while confined. Currently, § 18.2-250 does not require a mandatory minimum penalty or a mandatory treatment order.

Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, there were 7,611 offenders eligible for the proposed mandatory minimum during the two-year period. Nearly half (45%) were given probation without an active term of incarceration. Another 41% were sentenced to a local-responsible (jail) term with a median sentence of three months. Few (14%) received a state-responsible (prison) sentence; for those ordered to prison, the median sentence was 18 months (includes all offenses for which the defendant was convicted).

Overall, nearly 54% of offenders convicted for possessing a Schedule I or II drug were given sentences less than the proposed 45-day mandatory minimum.

Although not eligible for the mandatory minimum term, there were 1,561 offenders in the PSI database who were placed on first offender status during this same two-year period, and whose finding of guilt was deferred pending a one-year probationary term under § 18.2-251.

Impact of Proposed Legislation:

State adult correctional facilities. As the proposed mandatory minimum is less than one year, no impact on state-responsible (prison) bed space is anticipated.

Local adult correctional facilities. By requiring a mandatory minimum jail term, there will be a need for 200 more local-responsible (jail) beds under the proposal. This will result in a cost of \$1,895,485 for the state, and an additional \$1,750,200 for localities, in FY2012.

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

FY07	FY08	FY09	FY10	FY11	FY12
168	200	200	200	200	200

Adult community corrections programs. Because the proposal does not create new crimes or mandate longer periods of community supervision, it is unlikely that the proposal will have an impact on community corrections resources. The proposal, however, may affect the timing of service needs for some offenders, as those who have historically served less than the proposed 45-day minimum prison term would serve longer before being released to community supervision.

Virginia's sentencing guidelines. Possession of a Schedule I or II drug is covered by the sentencing guidelines; however, no adjustment to the guidelines is necessary under the proposal. Mandatory sentences required by statute supersede any recommendations of the sentencing guidelines that are lower than the mandatory term.

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 since mandatory minimum sentences are not applicable to juvenile offenders. Also, the Department's Length-of-Stay (LOS) guidelines will not be affected by the proposed changes.

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 is \$0 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.

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 2006.
2. Forecasts of cases resulting in probation without active incarceration and local-responsible sentences were based on the admissions forecast as developed by the Virginia Criminal Sentencing Commission using Pre/Post-Sentence Investigation (PSI) data.
3. Cost per jail bed was based on a preliminary draft of The Compensation Board's FY2004 Jail Cost Report. (This information does not include data from the Roanoke County/Salem jail, nor has the report been approved by the members of the Board.) The state cost was calculated from the revenue portion and the resulting sum was \$26.00 per day or \$9,498 per year. The local cost was calculated by using the daily expenditure cost of \$54.41 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 \$24.01 per day or \$8,770 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. The local-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 for local-responsible felony convictions were estimated based on data provided by the Compensation Board on the average percentage of time actually served by felons sentenced in FY2003 to local jails; this rate was 89.7%.
3. Sentences for all persons affected under the proposed legislation were adjusted to be equal to the mandatory minimum as specified under the proposed § 18.2-250, unless the effective sentence (imposed sentence minus suspended time) already exceeded the mandatory minimum. If the offender had multiple convictions for crimes that would qualify for the proposed mandatory minimum, the sentences were treated as being served concurrently.

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