



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

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#### House Bill No. 2331 (Patron – Gilbert)

LD#: 07-8565306

Date: 12/18/2006

Topic: Assault and battery of an attorney for the Commonwealth

#### 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, likely to be small

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

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#### Summary of Proposed Legislation:

The proposal amends § 18.2-57 to make assault or assault and battery of an attorney for the Commonwealth subject to the same penalties that apply when the victim is a law enforcement officer, firefighter, emergency medical service provider, or judge.

Since July 1, 1997, assault of a law enforcement officer has been a Class 6 felony with a six-month mandatory, minimum term of confinement; the 2006 General Assembly extended these penalties to cover cases involving assault of a judge. Currently, under § 18.2-57(A), simple assault or assault and battery of a person who is not a law enforcement officer, firefighter, emergency medical service provider, or judge is a Class 1 misdemeanor.

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#### Analysis:

For FY2007, the General Assembly has approved funding for a total of 1,158 Commonwealth's attorneys, including the elected officer for each jurisdiction. The number of assaults committed against Commonwealth's attorneys while engaged in the performance of public duties is unknown.

According to fiscal year (FY) 2005 and FY2006 Sentencing Guidelines data, 781 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 (62%) received a local-responsible (jail) sentence. Approximately 36% were given a state-responsible (prison) term; for offenders committed to prison, the median sentence was 1.5 years.

According to the Local Inmate Data System (LIDS), which contains information on all persons held in local and regional jails in Virginia, 6,258 persons were convicted during calendar year (CY) 2004 and CY2005 of a Class 1 misdemeanor assault or assault and battery under § 18.2-57(A). Most of the offenders held pre- or post-trial in jail received an active term of incarceration for the offense. The median jail sentence was approximately two months.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it increases the statutory penalty for an assault or assault and battery committed against a Commonwealth's attorney, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated. While the magnitude of the impact cannot be determined, it is expected to be small, since Commonwealth's attorneys likely are not assaulted at the same rate as police officers.

**Local adult correctional facilities.** The proposal may increase local-responsible (jail) bed space needs. Although the magnitude of the impact cannot be determined, it is likely to be small.

**Adult community corrections resources.** Because the proposal may result in additional felony 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, but is likely to small.

**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.** Because the proposal increases the penalty for certain acts from a misdemeanor to a felony, the proposal could result in additional commitments to the Department of Juvenile Justice (DJJ). 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. If a juvenile were committed to DJJ for this felony offense, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months. However, DJJ does not expect an impact of the proposal on Juvenile Correctional Center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal is not expected to have an impact on the bed space needs of juvenile detention facilities.

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**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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