



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2586 (Patron – Janis)

LD#: 07-8306284

Date: 12/11/2006

Topic: Looting during state of emergency

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
None

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

Summary of Proposed Legislation:

The proposal adds § 18.2-94.1 to prohibit looting of homes, businesses, plants, storage facilities or vehicles during the existence of a state of emergency declared by the Governor or local governing body. Under the proposal, looting is punishable as a Class 1 misdemeanor for the first violation and as a Class 6 felony for a second or subsequent violation, provided the offender has been at liberty between each conviction. The proposal specifies that previous juvenile adjudications and findings of not innocent for looting are to be counted as prior convictions for the purposes of this section. Looting, under this proposal, constitutes a separate and distinct offense, and prosecution for looting would not prohibit prosecution under other provisions which may also apply.

Analysis:

No information is available on the number of criminal offenses related to looting that have occurred during a state-of-emergency declaration in Virginia.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new crime to be treated as a separate and distinct offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. Offenders apprehended and convicted for such crimes as trespassing, vandalism, larceny and burglary committed during a state of emergency may face additional incarceration time if also convicted for the proposed looting offense. Because future state-of-emergency declarations cannot be predicted and the number of incidences of looting during a state of emergency is unknown, the magnitude of the impact cannot be quantified.

Local adult correctional facilities. While the proposal may increase local-responsible (jail) bed space needs, the magnitude of the impact cannot be determined.

Adult community corrections resources. The proposal is not expected to increase the need for adult community corrections resources and could delay the need for services for some affected offenders, if the proposal results in longer incarceration terms for those convicted of this crime.

Virginia's sentencing guidelines. Convictions under the proposed § 18.2-94.1 would not be covered by the sentencing guidelines as the primary (most serious) offense at conviction, but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the effect of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined. However, under the Department's Length of Stay (LOS) guidelines, the minimum length of stay range for the felony provision would be 6 to 12 months.

Juvenile detention facilities. The Department of Juvenile Justice reports that the effect of the proposal on the bed space needs of juvenile detention facilities cannot be determined.

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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