



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2756

Amendment in the Nature of a Substitute

(Patron Prior to Substitute – Hurt)

LD#: 07-7033340

Date: 1/24/2007

Topic: Escape

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$15,299 (approximately one bed)
- **Local Adult Correctional Facilities:**
Negligible
- **Adult Community Corrections Programs:**
None

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

Summary of Proposed Legislation:

The proposal amends § 19.2-306 to specify that, when a capias or warrant is issued for violation of probation or a suspended sentence, the underlying charge dictates whether it is a misdemeanor or felony warrant. The proposal expands the felony provisions of § 18.2-479 by specifying that a person held on a felony charge who escapes without force is guilty of a Class 6 felony. Similarly, a person held on a misdemeanor charge who escapes without force is guilty of a Class 1 misdemeanor. Currently, under § 18.2-479, persons detained for probation or parole violations who escape without force are charged with a misdemeanor regardless of the seriousness of the offense for which they are on probation.

Analysis:

According to the Local Inmate Data System (LIDS), which contains information on all persons held in local and regional jails in Virginia, 243 persons were convicted during CY2004 and CY2005 of misdemeanor escape under §18.2-479. Only one offender could be identified as having an accompanying probation violation charge that, under the proposal, would elevate the escape to a felony offense. This offender received a total sentence of 1.8 years for all charges.

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the penalty for certain escapes from a misdemeanor to a felony, the proposal is expected to increase the future state-responsible (prison) bed space needs of the Commonwealth. The impact is estimated to be approximately one bed by FY2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$15,299.

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

FY08	FY09	FY10	FY11	FY12	FY13
0	0	0	0	1	1

Local adult correctional facilities. The proposal is expected to have a negligible impact on local-responsible (jail) beds.

Adult community corrections programs. Because the proposal deals with a population already under supervision, the impact on community corrections programs is expected to be negligible.

Virginia's sentencing guidelines. If enacted, felony convictions under § 18.2-479 would not be covered by the sentencing guidelines as the primary (or most serious) offense. However, convictions under this provision may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines is necessary under the proposal.

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. Nonetheless, if a juvenile were committed to DJJ for the specified felony, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months.

Juvenile detention facilities. The Department of Juvenile Justice 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 \$15,299 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. New cases representing state-responsible sentences were based on forecasts developed for the Secretary's Committee on Inmate Forecasting and approved in July 2006.
3. Cost per prison bed was assumed to be \$25,709 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 FY2005 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.37 per day or \$10,362 per year. The local cost was calculated by using the daily expenditure cost of \$59.24 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 \$26.23 per day or \$9,581 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*
5. The impact of the proposed legislation, which would be effective on July 1, 2007, is phased in to account for case processing time.

Assumptions relating to sentence lengths

1. 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, 2005. For person crimes, this rate was 10.47%.
2. For persons convicted of a misdemeanor escape under § 18.2-479 with a probation or suspended sentence violation for an underlying felony conviction, it was assumed that the distribution of sentences under the proposal would be similar to the distribution of sentences for persons currently convicted under felony escape provisions.