



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1233 *Amendment in the Nature of a Substitute* *(Patron Prior to Substitute – Obenshain)*

LD#: 07-0078782

Date: 1/22/2007

Topic: Assault and battery of a federal conservator of the peace

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)

Summary of Proposed Legislation:

The proposal amends § 18.2-57 to expand the definition of “law enforcement officer” to include any employee of the United States government who is a conservator of the peace pursuant to § 19.2-12.

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.

Analysis:

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.

According to federal sentencing data provided by the United States Sentencing Commission, five offenders were convicted of assault of a law enforcement or corrections officer during FY2002 and FY2003. All received a federal prison term, for which the median sentence was 4.3 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands an existing felony provision to cover federal conservators of the peace, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions leading to conviction in Virginia courts cannot be estimated. While the magnitude of the impact cannot be determined, it is expected to be small, as federal data indicate few convictions for this type of crime during a recent two-year period.

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. According to the Department of Juvenile Justice (DJJ), the proposal will not increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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