



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 744 **(Patron – Cleaveland)**

LD#: 10102708

Date: 2/3/2010

Topic: Bullying at school

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$0 (None)
- **Local Adult Correctional Facilities:**
\$0 (None)
- **Adult Community Corrections Programs:**
\$0 (None)

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

Summary of Proposed Legislation:

The proposal adds § 18.2-57.03 to make bullying, harassment, and intimidation of a student on school property, on a school bus, or at a school-sponsored activity punishable as an assault under § 18.2-57.

Under current law, simple assault under § 18.2-57 is punished as a Class 1 misdemeanor. However, if the victim is chosen because of his race, religious conviction, color or national origin, the offense carries a 30-day mandatory minimum term of confinement; if bodily injury results, the penalty for this offense increases to a Class 6 felony with a 30-day mandatory minimum sentence. The penalty is also increased to a Class 6 felony with a 6-month mandatory minimum if the victim is law enforcement officer, correctional officer, firefighter, emergency medical service provider, or judge.

Analysis:

According to Local Inmate Data System (LIDS) data, a misdemeanor hate-crime assault and battery (under the existing § 18.2-57(A)) was the primary, or most serious, offense at sentencing for 132 inmates held pre- or post-trial in jail during calendar year (CY) 2007 and CY2008. Nearly all of the cases resulted in a local-responsible (jail) term, with a median sentence of 3 months.

According to fiscal year (FY) 2007 and FY2008 Pre/Post-Sentence Investigation (PSI) data, there were two felony convictions for hate-crime assault and battery resulting in bodily injury (§ 18.2-57(B)) during this time period. In both of these cases, the primary, or most serious offense, was a street robbery.

According to the 2009 Indicators of School Crime and Safety (based on data collected as a supplement to the National Crime Victimization Survey in 2007)¹ 32% of students, aged 12 to 18, reported having been

¹Dinkes, R., Kemp, J., and Baum, K. (2009). *Indicators of School Crime and Safety: 2009* (NCES 2010-012/ NCJ 228478). National Center for Education Statistics, Institute of Education Sciences, U.S. Department of Education, and Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice. Washington, DC. <http://nces.ed.gov/pubs2010/2010012.pdf>

bullied at school during the school year. Of those reporting that they were bullied, 79% said they were bullied inside the school, 23% outside on school property, 8% on a school bus, and 4% were bullied elsewhere. Reports of bullying consisted of: being made fun of (21%) or being the subject of rumor (18%) to being pushed, shoved, tripped or spit on (11%) or threatened with harm (6%). Nine percent of those bullied reported injuries as the result of being pushed, shoved, tripped, or spit on.

Impact of Proposed Legislation:

State adult correctional facilities. Because the proposed crime requires that the bullying, harassment, and intimidation occur on school property, on a school bus or at a school-sponsored activity, and the most likely persons to commit this crime will be minors, it is highly unlikely for this proposal to affect the future state-responsible (prison) bed space needs of the Commonwealth.

Local adult correctional facilities. Similarly, the proposal is unlikely to increase the need for local-responsible (jail) beds.

Adult community corrections resources. The need for adult community corrections resources are unlikely to be increased by the proposal

Virginia's sentencing guidelines. Offenses listed under subsection A or B of § 18.2-57(B) are not covered by the guidelines as the primary offense 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, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice, the impact 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 is \$0 for periods of imprisonment in state adult correctional facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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