



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 588

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Marsden)

LD #: 10104514

Date: 1/25/2010

Topic: Assault and battery against a mass transit operator

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-57 by creating a new subsection D to make assault or assault and battery of a mass transit operator, engaged in the performance of duties as a mass transit operator, subject to the same penalties that apply when the victim is a law enforcement officer, correctional officer, firefighter, emergency medical service provider, or judge without actually defining such persons as law enforcement officers. The proposal defines “mass transit operator” as a person operating a mass transit vehicle and “mass transit vehicle” as any publicly or privately owned or operated commercial vehicle designed to carry six or more passengers.

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. In 2008, the General assembly added full-time sworn members of the enforcement division of the Department of Motor Vehicles and the 2009 General Assembly added Metropolitan Washington Airports Authority police officers to the definition of “law enforcement officer.”

Analysis:

According to the Virginia Department of Motor Vehicles, as of July 1, 2009, 67,308 drivers in Virginia held an endorsement to carry 15 or more passengers. The number of these individuals who are actively employed as mass transit operators, as defined in the proposal, is unknown. A special license is not required for individuals who carry less than 15 passengers.

According to the fiscal year (FY) 2008 and FY2009 Sentencing Guidelines database, 1,166 offenders were convicted of a felony for assault or assault and battery of a law enforcement officer, firefighter,

correctional officer, medical service provider, or judge under § 18.2-57(C). In 933 of the cases, the assault was the primary, or most serious, offense. Of these, 61% of the offenders received a local-responsible (jail) sentence, with a median sentence length of 7 months. For the 38% of offenders who were given a state-responsible (prison) term, the median sentence was 1.5 years.

According to fiscal year (FY) 2007 and FY2008 General District Court Automated Information System (CAIS) data, when convicted of a misdemeanor assault (as the primary, or most serious offense), more than half (55%) of offenders were given a jail term, with a median sentence of one month. The remaining 45% were not given an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands a felony offense, the proposal may have an impact on the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. The magnitude of the impact on prison beds cannot be quantified.

Local adult correctional facilities. Because a felony conviction can result in a sentence to be served in a local or regional jail, the proposal may have an impact on future local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined with existing data.

Adult community corrections programs. Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. The sentencing guidelines cover violations of § 18.2-57(C) that are processed in Virginia's circuit courts. 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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.