



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2064 (Patron – Bell, Robert B.)

LD#: 11103098

Date: 12/28/2010

Topic: Assault and battery of persons associated with DOC

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the 2010 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(C) to make assault or assault and battery of a person employed in a prison by a contractor subject to the same penalties that apply when the victim is a law enforcement officer, correctional officer, firefighter, emergency medical service provider, judge, or employee of the Department of Corrections (DOC) who is directly involved in the care, treatment, or supervision of inmates. Under § 53.1-261, a prison contractor is defined as any entity, including a local government, entering into or offering or proposing to enter into a contractual agreement to provide any correctional services to inmates under the custody of the Commonwealth or federal inmates under the custody of the prison contractor. Employers that may fall under this definition include the Department of Correctional Education, Virginia Correctional Enterprises, groups contracted to provide rehabilitative or healthcare services to inmates, private employers providing maintenance services in the facilities, and the GEO Group, which currently operates Lawrenceville Correctional Center.

The proposal would also expand the list of individuals covered under § 18.2-57(C) to include any person directly involved in the care, treatment or supervision of inmates in the custody of the Department of Corrections. Currently, this language is limited to only DOC employees who are involved in these activities.

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 (§ 18.2-57(C)). 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.”

Currently, under § 18.2-57(A), simple assault or assault and battery of a person who is not a law enforcement officer, correctional officer, firefighter, emergency medical service provider, or judge is a Class 1 misdemeanor.

Analysis:

According to the fiscal year (FY) 2009 and FY2010 Sentencing Guidelines database, 1,055 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 856 of the cases, the assault was the primary, or most serious, offense. Of these, 63% of the offenders received a local-responsible (jail) sentence, with a median sentence length of 7.0 months. In addition, 1% of the offenders received probation or were sentenced to the time served by the offender while awaiting trial. For the 36% of offenders who were given a state-responsible (prison) term, the median sentence length was 1.5 years.

According to the Department of Corrections (DOC), as of December 28, 2010, there are approximately 9,700 DOC employees who have direct contact with inmates. Of the total, 6,599 are correctional officers as defined in § 53.1-1; the remainder (roughly 3,100) are other DOC employees who interact with inmates. DOC reports that there were 75 inmate-on-staff assaults in FY2009 and FY2010 that were referred by DOC's Inspector General for prosecution.

DOC also reports that, as of December 28, 2010, there are approximately 3,000 volunteers and 945 persons in contract positions who have direct contact with inmates. Contract positions include staff of the Lawrenceville prison and persons contracted to provide medical, food, and commissary services, with additional personnel under contract to provide maintenance at the Green Rock facility. Volunteers and contract staff would be covered under the proposed legislation.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of a felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The rate at which volunteers and contractors are assaulted is not known. Since 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 it is specific to assaults on persons who have direct contact with DOC inmates, the proposal is not expected to have an impact on local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to increase the need for community corrections resources and will likely delay the need for services for offenders affected by the proposal, as they will most likely be staying in prison longer prior to being released to the community.

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 (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), 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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the 2010 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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