



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 547 (Patron – Northam)

LD#: 12103830

Date: 1/11/2012

Topic: Assault and battery of contractors and persons associated with care of prison inmates

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 890 of the 2011 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 contractor working in a prison subject to the same penalties that apply when the victim is a law enforcement officer, correctional officer, firefighter, etc. The proposal also expands this provision to cover all individuals (not just DOC employees) who are directly involved in the care, treatment, or supervision of prison 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.

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 and 2009, the General assembly added full-time sworn members of the enforcement division of the Department of Motor Vehicles and Metropolitan Washington Airports Authority police officers. The 2011 General Assembly expanded the list of professionals covered under § 18.2-57(C) to include special agents of the Department of Alcoholic Beverage Control and fire marshals vested with police powers. Finally, the 2011 General Assembly specifically defined assault of an emergency health care provider as a Class 1 misdemeanor carrying a mandatory minimum sentence of two days.

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, etc., is a Class 1 misdemeanor.

Analysis:

According to the fiscal year (FY) 2010 and FY2011 Sentencing Guidelines database, 1,029 offenders were convicted of a felony for assault or assault and battery of a law enforcement officer, correctional officer, firefighter, etc., under § 18.2-57(C) during the two-year period. In 834 of the cases, the assault was the primary, or most serious, offense. Of these, nearly two-thirds (64%) of the offenders received a local-responsible (jail) sentence, with a median sentence length of 7.0 months. In addition, 2% of the offenders received probation or were sentenced to the time served by the offender while awaiting trial. For the 34% 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 January 4, 2012, there are approximately 901 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. 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 DOC contractors and others having direct contact with inmates 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 individuals working in prisons and juvenile facilities, 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, the proposal is not expected to increase juvenile correctional center bed space needs.

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 cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 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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