



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1634 (Patron – Cosgrove, J.)

LD#: 13101621

Date: 12/6/2012

Topic: Impersonating law enforcement officer while committing an additional act

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 3 of the Acts of Assembly of 2012, Special Session I, requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-174, relating to impersonating a law enforcement officer. This offense is currently a Class 1 misdemeanor. Under the proposal, any person who violates § 18.2-174(A): 1) while committing or attempting to commit a violation of §§ 18.2-61 (rape), 18.2-67.1 (forcible sodomy), 18.2-67.2 (object sexual penetration), 18.2-67.3 (aggravated sexual battery), or 18.2-67.4 (sexual battery) or 2) while circumventing or bypassing, or attempting to circumvent or bypass, any security measures of any business, commercial building, or residence is guilty of a Class 6 felony.

Analysis:

According to fiscal year (FY) 2011 and FY2012 data from the General District Court Case Management System¹, 84 offenders were convicted of violating § 18.2-174. While 46 offenders (55%) did not receive an active term of incarceration, 38 offenders (45%) were sentenced to local-responsible (jail) terms with a median sentence of two months.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal would increase the penalty for a violation of § 18.2-174 from a Class 1 misdemeanor to a Class 6 felony when this offense occurs in conjunction with certain additional acts. As a result, the proposal may increase 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 that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison beds cannot be quantified.

¹ Formerly referred to as the Court Automated Information System (CAIS).

Local adult correctional facilities. Because some offenders will likely serve longer jail terms if they are convicted of a Class 6 felony under § 18.2-174, the proposal may increase the future local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined.

Adult community corrections resources. Raising a crime from a Class 1 misdemeanor to a Class 6 felony may decrease the demand for local community-based probation services and increase the need for state community corrections resources. The *Code of Virginia*, however, allows judges to utilize local community-based probation programs for Class 5 and Class 6 felons as well as misdemeanants. The net impact of the proposal on local versus state community corrections resources cannot be estimated.

Virginia's sentencing guidelines. Because the proposal defines a new felony offense, convictions under the proposal would not be covered by the sentencing guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. The Department of Juvenile Justice (DJJ) reports that this proposal will have an impact on bed space needs for juvenile correctional centers; however, the impact cannot be quantified.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that this proposal's impact on detention center bed space 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 3 of the Acts of Assembly of 2012, Special Session I, 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.

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