



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 1850

#### Reenrolled

(Patrons Prior to Reenrollment – Albo and O’Quinn)

LD#: Reenrolled

Date: 4/3/2013

Topic: Assault and battery of jail employees

#### 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:**  
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 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 expands § 18.2-57(C) to make the assault or assault and battery of an employee of a local or regional correctional facility who is directly involved in the care, treatment, or supervision of inmates in the custody of a local or regional correctional facility subject to the same penalties that apply when the victim is a law enforcement officer, correctional officer, firefighter, etc.

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 1999 General Assembly revised § 18.2-57(C) to cover assaults on correctional officers or DOC employees involved in the care or supervision of inmates in the custody of the Department. In 2004, the General Assembly added volunteer firefighters and rescue squad members. 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.

The proposal includes an enactment clause indicating that the provisions of the act will not become effective unless an appropriation of general funds effectuating the purposes of the act is included in the

2013 general appropriations act that becomes law. The fourth enactment clause declares that the General Assembly has determined that the requirements of this enactment have been met.

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**Analysis:**

According to the fiscal year (FY) 2011 and FY2012 Sentencing Guidelines database, 1,006 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 815 of the cases, the assault was the primary, or most serious, offense. Of these, nearly two-thirds (62.7%) received a local-responsible (jail) sentence, with a median sentence length of seven months. For the 35.6% of offenders who were given a state-responsible (prison) term, the median sentence length was 1.5 years. The remaining 1.7% were sentenced to the time served by the offender while awaiting trial.

Existing databases do not provide sufficient detail to determine the number of assaults committed against employees of a local or regional correctional facility that are not already covered by § 18.2-57(C).

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**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. 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.** Similarly, the proposal may have an impact on local-responsible (jail) bed space needs, but the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Because the proposal could result in felony 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 programs 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 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.

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**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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**