



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 628

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

LD#: 16105015

Date: 2/1/2016

Topic: Threats of death

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 **

** Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

Currently, under § 18.2-60, communicating a threat to kill or do bodily injury in writing or by other visual representation to a person or a member of their family is a Class 6 felony if it reasonably causes a person to fear death or bodily injury. If the threat is made with the intent to commit an act of terrorism, the penalty is increased to a Class 5 felony. In addition, making threats in writing to kill or do bodily harm on school premises, on a school bus, or at school sponsored activities is a Class 6 felony, regardless of whether the victim is placed in reasonable apprehension of death or bodily harm. Orally communicating a threat to kill or cause bodily injury to a school employee while on school premises, on a school bus, or at school-sponsored activities is a Class 1 misdemeanor under § 18.2-60(B).

The proposal would amend § 18.2-60(A) to specify that threatening to kill a person or a member of their family by any means would be a Class 6 felony if that threat puts the person in reasonable apprehension of death. Making such threats with the intent to commit an act of terrorism would be punishable as a Class 5 felony.

Analysis:

According to the fiscal year (FY) 2014 and FY2015 Circuit Court Case Management System (CMS) database, 43 offenders were convicted of a Class 6 felony for communicating a threat in writing under § 18.2-60. Of these offenders, 62.8% received a state-responsible (prison) term, with the median sentence being 1.8 years. An additional 20.9% were sentenced to local-responsible (jail) terms, and the median sentence for these offenders was six months. The remaining 16.3% were not sentenced to an active term of

incarceration to serve after sentencing. The data also indicate that there were no convictions for a Class 5 felony under § 18.2-60 during this time period.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the types of threats that are covered as felonies under § 18.2-60, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, since existing data sources do not contain sufficient detail to identify cases that would be affected by the proposal, the number of additional felony convictions that may result from enactment of the proposal cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. Similarly, the proposal may also increase local-responsible (jail) bed space needs. However, 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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. As a new felony, convictions under the proposed amendments to § 18.2-60 would not be covered by the sentencing guidelines when this crime is the primary (most serious) offense. A conviction for such an offense, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. 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. The Department of Juvenile Justice reports that the proposal's impact 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 665 of the 2015 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.

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