



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1395 (Patron – Howell)

LD #: 19101473

Date: 12/18/2018

Topic: Bodily injury of a health care provider

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000*
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Direct Care:**
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 2 of the Acts of Assembly of 2018, 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 § 18.2-51.1 to make malicious bodily injury and unlawful bodily injury of a health care provider, as defined in § 8.01-581.1, subject to the enhanced penalties that apply when the victim is a law enforcement officer, firefighter, search and rescue official, or emergency medical services provider. Currently, under § 18.2-51.1, malicious bodily injury of a law enforcement officer, firefighter, search and rescue official, or emergency medical services provider is a felony punishable by imprisonment of five to thirty years and, upon conviction, the offender is subject to a mandatory minimum term of confinement of two years that cannot be suspended. Unlawful bodily injury to such persons is punishable as a Class 6 felony and is subject to a mandatory minimum term of one year.

The proposal also amends § 18.2-57 to make assault of an emergency health care provider subject to the same penalties as assault and battery of these individuals. Currently, assault and battery of an emergency health care provider is a Class 1 misdemeanor that requires a term of confinement of 15 days in jail, two days of which must be a mandatory minimum term.

Analysis:

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2017 and FY2018, 63 offenders were convicted of a Class 1 misdemeanor for assault and battery of an emergency health care provider during the two-year period.

Existing data do not contain sufficient detail to determine the total number of cases that would be affected if the proposal were enacted. However, offenders convicted of malicious or unlawful bodily injury of a health care provider may be sentenced similarly to those who are currently convicted under § 18.2-51.1 for similar crimes committed against law enforcement officers, firefighters, etc. (see table below).

Offenders Convicted of Select Felony Assault Offenses, FY2017-FY2018

Primary Offense	Total Number of Cases	Percent Sentenced to Probation	Percent Sentenced to Jail	Percent Sentenced to Prison	Median Prison Sentence
Unlawful bodily injury of a law enforcement officer, firefighter, etc. (§ 18.2-51.1)	6	0%	16.7%	83.3%	2.0 yrs.
Malicious bodily injury of a law enforcement officer, firefighter, etc. (§ 18.2-51.1)	16	0%	0%	100.0%	6.2 yrs.

Note: The analysis is based on cases in which the specified offense was the primary, or most serious, offense in the sentencing event.

Source: Sentencing Guidelines Data System, FY2017-FY2018

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of felony offenses that require a mandatory minimum prison term, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of offenders whose sentences would be affected if the proposal were enacted. Therefore, the impact on prison bed space needs cannot be determined.

Local adult correctional facilities. By expanding the applicability of a misdemeanor offense that requires a mandatory minimum jail term, the proposal may increase local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined.

Adult community corrections programs. The proposal is not expected to increase the need for community corrections resources and will delay the need for services for some offenders affected by the proposal, as they will serve longer incarceration terms prior to being released to the community.

Virginia's sentencing guidelines. Convictions under § 18.2-51.1 for malicious and unlawful bodily injury of law enforcement officers, firefighters, etc., are covered by the sentencing guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 2 of the Acts of Assembly of 2018, 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.