



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 964 (Patron – Hanger)

LD#: 20104804

Date: 1/10/2020

Topic: Assault of private police officers

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000*
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **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 854 of the 2019 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 to make assault or assault and battery of private police officers employed by private police departments (as defined in § 9.1-101) subject to the same penalties that apply when the victim is a law enforcement officer, correctional officer, firefighter, emergency medical services provider, magistrate, or judge. The number of private police officers who are not defined as law enforcement officers for the purposes of § 18.2-57 is unknown.

Since July 1, 1997, assault of a law enforcement officer has been a Class 6 felony requiring a six-month mandatory minimum term of confinement (§ 18.2-57(C)). Since 2006, the General Assembly has extended this Class 6 felony to cover assaults committed against other individuals, including judges, full-time sworn members of the enforcement division of the Department of Motor Vehicles, fire marshals who have been granted police powers, special agents of the Department of Alcoholic Beverage Control, magistrates, certain employees of local and regional jails, and any individual directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or sexually violent predators in the custody of the Department of Behavioral Health and Developmental Services.

Analysis:

Available data do not contain sufficient detail to determine the number of incidents that would be affected by the proposal. However, affected offenders may be sentenced similarly to those who are currently convicted under § 18.2-57(C) for assaulting a law enforcement officer or other covered individual. According to fiscal year (FY) 2018 and FY2019 Sentencing Guidelines data, 1,145 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). In 906 of the cases, a completed assault was the primary, or most serious, offense. More than half of the offenders (56.3%) received a local-responsible (jail) sentence for which the median sentence was seven months. For the 41.4% of offenders who were given a state-responsible (prison) term, the median sentence length was 1.5 years. The remaining 2.3% were sentenced to the time served by the offender while awaiting trial.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing felony offense, 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 likely to result from enactment of the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

Adult community corrections resources. 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 resources cannot be quantified.

Virginia's sentencing guidelines. The sentencing guidelines cover felony 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 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 854 of the 2019 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.