Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1802
(Patron – Cosgrove)

LD#:   07-4662276   **Date:**   12/22/2006

Topic: Impersonating a law enforcement officer

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
  $385,214 (15 beds)
- **Local Adult Correctional Facilities:**
  Negligible
- **Adult Community Corrections Programs:**
  Cannot be determined

- **Juvenile Correctional Centers:**
  Cannot be determined
- **Juvenile Detention Facilities:**
  Cannot be determined

Summary of Proposed Legislation:

The proposal amends § 18.2-174 to increase the penalty for falsely assuming or exercising the functions, powers, duties and privileges of sheriff, police officer, marshal or other peace officer from a Class 1 misdemeanor to a Class 6 felony.

Analysis:

According to the calendar year (CY) 2004 and CY2005 Local Inmate Data System (LIDS), 55 offenders held pre- or post-trial in jail were convicted of a Class 1 misdemeanor under § 18.2-174 for impersonating a law enforcement officer. Most offenders held in jail received an active term of incarceration for the offense. Approximately 85% were given a local responsible (jail) term, for which the median sentence was one month. Another 11%, who had additional charges, were sentenced to a state responsible (prison) term (median sentence of 1.4 years).

Impact of Proposed Legislation:

State adult correctional facilities. Because it increases the penalty for an existing Class 1 misdemeanor to a Class 6 felony, the proposal is expected to increase then need for state-responsible (prison) beds. The impact is estimated to be 15 beds by 2013. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is $385,214.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY08	FY09	FY10	FY11	FY12	FY13
6	11	13	14	15	15

Local adult correctional facilities. Based on the same methodology, the estimated impact on local-responsible (jail) bed space needs is expected to be negligible.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, it may increase the need for adult community corrections resources. The magnitude of the impact on community corrections programs cannot be quantified.

Virginia's sentencing guidelines. As a new felony, violations under § 18.2-174 will not be covered by the sentencing guidelines as the primary (most serious) offense. A conviction under this provision, however, could augment the guidelines recommendation if the most serious offense at sentencing is a covered offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. Because the proposal increases the penalty for certain acts from a misdemeanor to a felony, the proposal could result in additional commitments to the Department of Juvenile Justice (DJJ). Existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication or has accumulated a total of four Class 1 misdemeanor adjudications. If a juvenile were committed to DJJ for this felony offense, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months. According to the Department of Juvenile Justice (DJJ), the proposal is expected to increase the need for Juvenile Correctional Center (JCC) beds, but the size of the impact cannot be quantified.

Juvenile detention facilities. The Department of Juvenile Justice reports that the impact of the proposal 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 is $385,214 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

Assumptions underlying the analysis include:
General Assumptions
1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2006.
2. New cases representing state-responsible sentences were based on forecasts developed for the Secretary's Committee on Inmate Forecasting and approved in July 2006.
3. Cost per prison bed was assumed to be $25,709 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on the Compensation Board's FY2005 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was $28.37 per day or $10,362 per year. The local cost was calculated by using the daily expenditure cost of $59.24 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in $26.23 per day or $9,581 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*
5. The impact of the proposed legislation, which would be effective on July 1, 2007, is phased in to account for case processing time.
Assumptions relating to sentence lengths
1. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2005. For fraud and larceny crimes, this rate was 11.65%.
2. To gauge the impact of proposed penalty structure, it was assumed that the distribution of sentences for offenders affected by the proposal will be similar to the distribution of sentences for Class 6 felony convictions relating to fraud.

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