



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2332

(Patron – Gilbert)

LD#: 07-8564306

Date: 12/18/2006

Topic: Obstruction of justice; threats of bodily harm or force

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 18.2-460(C) to make it a Class 5 felony for any person to attempt to intimidate or impede an attorney for the Commonwealth by threats of bodily harm or force. Currently, this provision covers judges, magistrates, justices, jurors, witnesses, and law enforcement officers. Commonwealth's attorneys already are included, along with these other officials, in the misdemeanor provisions of this statute [§ 18.2-460(A) and § 18.2-460(B)].

Analysis:

For FY2007, the General Assembly has approved funding for a total of 1,158 Commonwealth's attorneys, including the elected officer for each jurisdiction. The number of threats of bodily harm or force made towards Commonwealth's attorneys while engaged in the performance of public duties is unknown.

According to fiscal year (CY) 2004 and CY2005 Pre-Sentence Investigation (PSI) data, five offenders were convicted of a completed felony under § 18.2-460(C) for attempting to intimidate or impede an official by threats of bodily harm or force. These offenses were completed crimes and, in each case, this charge was the primary, or most serious, offense in a sentencing event. Among the five offenders, one received a local-responsible (jail) sentence of six months. The remaining four were given state-responsible (prison) terms with a median sentence of 1.5 years.

According to the Local Inmate Data System (LIDS), 844 persons held pre- or post-trial in jail were convicted during calendar year (CY) 2004 and CY2005 of a Class 1 misdemeanor under § 18.2-460(B), for attempting to intimidate or impede an official by threat or force. Most of the offenders held pre- or post-trial in jail received an active term of incarceration for the offense. The median jail sentence was approximately two months. The number of misdemeanor cases that involve Commonwealth's attorneys and threats of bodily harm cannot be identified.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of a felony provision, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional felony convictions that may result from the proposal cannot be estimated. While the magnitude of the impact cannot be determined, it is expected to be small.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs. Although the magnitude of the impact cannot be determined, it is likely to be small.

Adult community corrections resources. Because the proposal may result in additional felony offenders placed on community supervision (or lengthier supervision periods for offenders already in the community), it may have an impact on community corrections resources. The potential impact on adult community corrections cannot be determined, but is likely to be small.

Virginia's sentencing guidelines. Convictions under § 18.2-460 are not covered by Virginia's sentencing guidelines as the primary (or most serious) offense in a sentencing event. However, convictions under these provisions may augment the guidelines recommendation if a covered offense is the most serious at conviction.

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. However, DJJ does not expect an impact of the proposal on Juvenile Correctional Center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to have an impact on the bed space needs of juvenile detention facilities.

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 and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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