



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 321** *(Patron – Saxman)*

**LD#:** 08-7724712

**Date:** 11/6/2007

**Topic:** Assault and battery of a juvenile correctional officer

#### **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:**  
Cannot be determined
- **Juvenile Detention Facilities:**  
None (\$0)

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#### **Summary of Proposed Legislation:**

The proposal amends § 18.2-57 to make assault or assault and battery of any employee, directly involved in the care, treatment or supervision of juveniles, of a juvenile correctional center, detention facility, or secure facility operated by or under contract with the Department of Juvenile Justice (DJJ) subject to the same penalties that apply when the victim is a law enforcement officer, firefighter, emergency medical service provider, or judge.

Since July 1, 1997, assault of a law enforcement officer has been a Class 6 felony with a six-month mandatory, minimum term of confinement; the 2006 General Assembly extended these penalties to cover cases involving assault of a judge. Currently, under § 18.2-57(A), simple assault or assault and battery of a person who is not a law enforcement officer, firefighter, emergency medical service provider, or judge is a Class 1 misdemeanor.

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#### **Analysis:**

The Department of Juvenile Justice reports that, as of October 10, 2007, there were 1,419 persons employed in the juvenile correctional centers (JCC) and 980 in local detention centers for whom, if assaulted, the proposed provisions of § 18.2-57(C) would apply. The number of assaults committed against these persons, while in the course of their duties, is unknown.

According to fiscal year (FY) 2006 and FY2007 Sentencing Guidelines data, 697 offenders were convicted of a felony in circuit court for an assault and battery of a law enforcement officer, firefighter, medical service provider, or judge under § 18.2-57(C). These offenses were completed crimes and, in each case, the assault was the primary, or most serious, offense in a sentencing event. Most offenders (62%) received a local-responsible (jail) sentence. Approximately 36% were given a state-responsible (prison) term; for offenders committed to prison, the median sentence was 1.5 years.

According to the Local Inmate Data System (LIDS), which contains information on all persons held in local and regional jails in Virginia, 6,102 persons were convicted during calendar year (CY) 2005 and

CY2006 of a Class 1 misdemeanor assault or assault and battery under § 18.2-57(A). Most of these 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.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** The impact of this proposal on state-responsible bed space needs for adult offenders cannot be determined but is likely to be small. The proposal increases the penalty for an assault or assault and battery committed against an employee of a juvenile correctional center or detention home from a Class 1 misdemeanor to a Class 6 felony carrying a six-month mandatory minimum term. Persons committing this crime are most likely to be wards of Virginia's Department of Juvenile Justice (DJJ) or residents of locally-operated juvenile detention homes. For some of these offenders, a felony assault charge would be handled in circuit court instead of the Juvenile and Domestic Relations Court. Specifically, juveniles committed to DJJ after being tried as an adult and convicted in circuit court must have all subsequent charges handled by the circuit court. In addition, juveniles who turn 18 while they are committed to DJJ will be tried in circuit court for a felony assault committed in a DJJ facility. Once convicted of felony assault in circuit court, these offenders could receive a sentence to be served in an adult facility. Although the impact of this change on state-responsible bed space needs cannot be quantified given available data, it is expected to be small.

**Local adult correctional facilities.** Because a portion of the offenders convicted of this crime could be given a sentence to be served in an adult facility, the proposal could have an impact on local-responsible bed space needs. While the magnitude of the impact cannot be determined, it is likely to be small.

**Adult community corrections resources.** Because the proposal could 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 adult community corrections resources. While the magnitude of the impact cannot be determined, it is likely to be small.

**Virginia's sentencing guidelines.** The sentencing guidelines cover violations of § 18.2-57(C) handled in Virginia's circuit courts. No adjustment to the guidelines is 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, previously adjudicated for a felony or has accumulated a total of four Class 1 misdemeanor adjudications. In addition, this proposal may lead to a longer length of stay for juveniles already in the custody of DJJ when they committed the crime. If a juvenile were committed to DJJ for the proposed felony offense, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would be 6 to 12 months. The number of juveniles who may be affected by the proposal cannot be determined. Therefore, DJJ is not able to assess the impact of the proposal on Juvenile Correctional Center (JCC) bed space needs. According to DJJ, mandatory-minimums do not affect the calculation of a minimum LOS, and consequently has no bearing on JCC bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the proposal should not increase the bed space needs of juvenile detention facilities. The youth has to be in a detention home before they can assault and batter an employee to that home. As such, following a charge of assault and battery, the youth may be removed to jail as a safety risk pursuant to paragraphs E and F of § 16.1-249, and are not likely to be sent back to detention following adjudication. Moreover, these juveniles have an increased chance of being committed to DJJ or being certified to Circuit Court to be tried as an adult; in either case, there would not be a need for additional detention beds.

**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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