



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 610

(Patron – Eisenberg)

LD#: 08-0237496

Date: 1/7/2008

Topic: Hate crimes; homeless persons

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **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 expands §§ 18.2-57 and 18.2-121 to add homeless persons to Virginia's hate crime provisions. Existing provisions cover acts committed based on a person's race, religion, color or national origin.

Currently, under § 18.2-57, an assault or an assault and battery is punished as a Class 1 misdemeanor. If the victim is chosen because of his race, religion, color or national origin, the offense carries a 30-day mandatory minimum term of confinement. If bodily injury results, the penalty is raised to a Class 6 felony and a 30-day mandatory minimum sentence applies. Under § 18.2-121, it is a Class 1 misdemeanor to enter the land, dwelling, outhouse or other building of another for the purpose of damaging such property. If the property was selected because of the owner's race, religion, color or national origin, the offense is a Class 6 felony, 30-days of which is a mandatory minimum term.

The proposal also adds homeless persons to § 8.01-42.1, which currently provides for civil action by any person subjected to harassment, violence or vandalism based on racial, religious or ethnic animosity. In addition, the proposal adds homeless persons to § 52-8.5, which requires the State Police to maintain a central repository of information on hate crimes.

Analysis:

According to Virginia's Incident Based Reporting System (IBR) for calendar year 2006, there were 202 incidents of assault or destruction of property motivated by the offender's bias against the victim's race, religion, national origin, sexual orientation or disability. Of the total reported, 66 incidents were simple assaults, 14 were aggravated assaults, and 122 involved vandalism or destruction of property.

According to fiscal year (FY) 2006 and FY2007 Pre/Post-Sentence Investigation (PSI) data, two offenders were convicted of a felony for a hate-crime assault and battery that resulted in bodily injury to the victim (§ 18.2-57(B)). One was sentenced to a state-responsible (prison) term of 2.5 years while the other received a local-responsible (jail) term of 6 months. There was one conviction for trespassing

with the intent to damage property as a hate crime (§ 18.2-121) during this time period. This offender was sentenced to eight months in jail.

Based on data from the Local Inmate Data System (LIDS), there were 86 misdemeanor convictions for hate-crime assault and battery (§ 18.2-57(A)) among offenders held in jail pre or post-trial during calendar years 2005 and 2006. Nearly all of these convictions (90%) resulted in a jail term, with a median sentence of three months. Another 5% were sentenced to prison with to multiple charges. LIDS data also reveal three convictions for hate-crime trespassing with the intent to damage property (§ 18.2-121); two were sentenced to jail and one was given probation.

Existing databases do not provide sufficient detail to identify cases involving homeless victims.

Impact of Proposed Legislation:

State adult correctional facilities. Because it broadens the definition of existing felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the magnitude of the impact cannot be quantified.

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

Adult community corrections programs. The proposal may increase the need for adult community corrections programs, but the magnitude of the impact cannot be estimated.

Virginia's sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the impact of the proposal on juvenile correctional center bed space needs cannot be determined.

Juvenile detention facilities. According to the Department of Juvenile Justice, 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 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.