



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 569

(Patron – Iaquinto)

LD #: 10100114

Date: 12/11/2009

Topic: Transfer of juveniles to circuit court

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the 2009 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 § 16.1-269.1, which outlines the criteria and procedures for transferring juveniles to circuit court for trial as adults. The proposal expands the list of offenses in § 16.1-269.1(C) to include acts of terrorism (§ 18.2-46.5(A,B)) and acts involving a weapon of terrorism or a hoax device (§ 18.2-46.6). For offenses listed in § 16.1-269.1(C), upon notice of the prosecutor's intent to pursue transfer, the juvenile court must conduct a preliminary hearing and, upon finding probable cause, must certify the charges to the grand jury (thus divesting the juvenile court of any jurisdiction in the case).¹ Currently, following motion of the prosecutor, juveniles charged with acts of terrorism or acts involving a weapon of terrorism can be transferred to circuit court under § 16.1-269.1(A) at the discretion of the juvenile court judge.

Analysis:

According to the Department of Juvenile Justice (DJJ), in FY2008-FY2009, five juveniles were processed through court services units for acts involving terrorism (§ 18.2-46.5(A,B)) or weapons of terrorism or hoax devices (§ 18.2-46.6). One of the five juveniles was arrested for a terrorist act. The other four offenders were arrested for possessing, manufacturing, or using a weapon of terrorism or fire bomb with the intent to commit an act of terrorism, in violation of § 18.2-46.6(A). Of the five juveniles, one case was transferred and is pending in circuit court. Two cases are pending in juvenile court and the other two have resulted in either a deferred disposition or diversion.

¹ If the juvenile court judge does not find probable cause or dismisses the charges, the Commonwealth's attorney may seek a direct indictment in circuit court.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal would eliminate the discretion of juvenile court judges to transfer juveniles charged with terrorist acts or acts involving weapons of terrorism, including hoax devices. Upon finding probable cause, the juvenile court judge would be required to transfer the case to circuit court.² Thus, the number of juveniles transferred to circuit court may increase. Circuit court judges can employ a number of sentencing options that are not available to juvenile court judges, including incarceration adult prison and jail facilities. In this way, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of individuals who may be convicted in circuit court in the future, however, is unknown. Therefore, the impact cannot be determined.

Local adult correctional facilities. The proposal could also increase local-responsible (jail) bed space needs of the Commonwealth; however, the size of the impact cannot be determined.

Adult community corrections programs. Because the proposal could result in 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. Violations of §§ 18.2-46.5 and 18.2-46.6 are not covered by the guidelines as the primary (or most serious) offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

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

Juvenile detention facilities. According to the Department of Juvenile Justice (DJJ), the effect 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; therefore, Chapter 781 of the 2009 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.

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² If the juvenile court judge does not find probable cause or dismisses the charges, the Commonwealth's attorney could seek a direct indictment in circuit court.