



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 183 **(Patron – Wampler)**

LD#: 10103516

Date: 1/7/2010

Topic: Malicious injury to search and rescue personnel

Fiscal Impact Summary:

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| <ul style="list-style-type: none">• State Adult Correctional Facilities:
None (\$0)• Local Adult Correctional Facilities:
None (\$0)• Adult Community Corrections Programs:
None (\$0) | <ul style="list-style-type: none">• Juvenile Correctional Centers:
Cannot be determined• Juvenile Detention Facilities:
Cannot be determined |
|---|---|

Summary of Proposed Legislation:

The proposed legislation expands the definition of “search and rescue personnel” under § 18.2-51.1 to include members of a search and rescue organization operating under a memorandum of understanding with the Virginia Department of Emergency Management (VDEM). Currently, only employees and members of a search and rescue organization authorized by a resolution or ordinance duly adopted by the governing body of any county, city or town of the Commonwealth are classified as search and rescue personnel in this statute.

Currently, under § 18.2-51.1, maliciously causing bodily injury to a law enforcement officer, firefighter, certain search and rescue personnel, or emergency medical services personnel with the intent to maim, disfigure, disable or kill is a felony punishable by up to 30 years of imprisonment. This offense carries a two-year mandatory minimum term of incarceration. Unlawfully, but not maliciously, causing bodily injury to one of these individuals is a Class 6 felony with a mandatory minimum term of 1 year.

While this statute was originally limited to law enforcement officers, the 1997 General Assembly added firefighters and increased the penalty for malicious injury to 30 years. The 2002 General Assembly expanded § 18.2-51.1 to include certain search and rescue personnel and emergency medical services personnel.

Analysis:

According to VDEM, approximately 500 volunteers are active members of a search and rescue organization currently operating under a memorandum of understanding (MOU) with the state. Members of these volunteer groups are typically mobilized when search and rescue organizations that are authorized by a resolution or ordinance of a locality request additional assistance in responding to an emergency. VDEM reports that no members of a search and rescue organization operating under a MOU have been intentionally injured while engaged in the performance of their official duties in the past 25 years.

According to Sentencing Guidelines data for fiscal year (FY) 2008 and FY2009, 15 offenders were convicted of non-malicious injury of a law enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel under § 18.2-51.1 during this time period. This offense was the primary, or most serious, offense in all of these cases. For the offenders who were sentenced to a state-responsible (prison) term, the median sentence length was 2 years. The Sentencing Guidelines data also indicate that 29 offenders were convicted of malicious injury of a law enforcement officer, etc., during the same two-year period. The malicious injury was the most serious offense in 25 of these cases. The median sentence length for the offenders sentenced to a prison term was 4.25 years.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal is unlikely to increase the future state-responsible (prison) bed space needs of the Commonwealth. According to VDEM, no members of a search and rescue organization operating under a memorandum of understanding have been intentionally injured while engaged in the performance of their official duties in the past 25 years. Therefore, it is unlikely that the proposal will generate new felony convictions resulting in additional commitments to prison over the next six years (the window specified by § 30-19.1:4 for legislative impact statements).

Local adult correctional facilities. Similarly, the proposal is unlikely to increase local-responsible (jail) bed space needs.

Adult community corrections programs. The proposal is not expected to affect state community corrections resources.

Virginia's sentencing guidelines. The sentencing guidelines cover violations of § 18.2-51.1 that are processed in Virginia's circuit courts. 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 is \$0 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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