



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 771

Amendment in the Nature of a Substitute (Patron Prior to Substitute – Landes)

LD#: 12105653

Date: 2/24/2012

Topic: Definition of Law Enforcement Officer

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
None (\$0)
- **Local Adult Correctional Facilities:**
None (\$0)
- **Adult Community Corrections Programs:**
None (\$0)

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

Summary of Proposed Legislation:

Currently, there are approximately 595 campus police officers¹ at public and private colleges and universities in Virginia who are sworn officers but are excluded from the definition of “law enforcement officer” in certain statutes of the *Code of Virginia*. The proposal would add campus police officers to several sections of the *Code* relating to certain protections and benefits granted to law enforcement officers in the Commonwealth. For instance, the proposal would expand § 23-7.4:1 to include surviving spouses and children of campus police officers in Virginia’s higher education tuition waiver program for the families of officers killed in the line of duty. Furthermore, the proposed modifications to § 18.2-308.2.2 exempt campus police officers from the criminal background check requirements for the purchase or sale of firearms.

By modifying § 9.1-101 to include campus police officers, the proposal expands the applicability of a few criminal statutes that use the definition of law enforcement officer set forth in § 9.1-101. Under the proposal, § 18.2-31, relating to the capital murder of a law enforcement officer, would apply in instances where the victim is a campus police officer. In addition, the Class 6 felony and six month mandatory minimum term established under § 18.2-186.4 for publishing an officer’s personally identifying information to coerce or harass would also include instances where the victim is a campus police officer. The proposal would not impact other statutes pertaining to crimes against law enforcement officers that use a more narrow definition of law enforcement officer, such as assault offenses defined in §§ 18.2-51.1, 18.2-57, and 18.2-57.02.

Analysis:

According to the Circuit Court Automated Information System (CAIS) for fiscal years 2010 and 2011, there were no convictions under § 18.2-31 for a completed act of the capital murder of a law enforcement officer. There were, however, nine cases that included the attempted capital murder of a law enforcement officer. Of these, five resulted in a life sentence while the remaining four received a

¹ Virginia State Police, *Crime in Virginia, 2010*, p.80, http://www.vsp.state.va.us/downloads/Crime_in_Virginia_2010.pdf.

state-responsible (prison) sentence, with a median sentence length of 34.6 years. Each of these offenders had a number of additional serious offenses and/or a prior criminal record. Also, one case included a conviction for accessory before the fact to the capital murder of a law enforcement officer, resulting in a state-responsible sentence of 10.7 years.

According to FY 2008 through FY 2011 data from the Circuit Court Automated Information System, there were no convictions involving use of a law enforcement officer's identity to coerce or harass under § 18.2-186.4 during this time period.

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the existing definition of "law-enforcement officer," as defined in § 9.1-101, to include campus police officers at public and private colleges and universities is unlikely to increase the state-responsible (prison) bed space needs of the Commonwealth during the six-year window specified by § 30-19.1:4 for legislative impact statements.

First, since campus police officers currently represent only 3.2% of the total number of sworn officers, any impact that might be related to a larger number of officers against whom an offense could be committed would be small.

Second, offenders who might be convicted of the capital murder of a campus police officer under § 18.2-31 currently can be convicted of first-degree murder. Nearly all offenders convicted of first degree murder receive sentences in excess of six years. Therefore, any potential impact associated with additional offenders being given life sentences would occur beyond the six-year forecast window required by § 30-19.1:4. The potential impact, if any, associated with increased death penalty cases, could be a slight reduction in prison beds needed, as the average time served prior to execution is seven years.²

Finally, since there have been no recent convictions under § 18.2-186.4 for publishing personal identifying information to coerce or harass a law enforcement officer, it is unlikely that the addition of a relatively small number of law enforcement officers will result in convictions under this provision.

Local adult correctional facilities. The proposal is unlikely to affect local-responsible (jail) bed space needs.

Adult community corrections resources. The proposal is unlikely to affect adult community corrections programs.

Virginia's sentencing guidelines. Virginia's sentencing guidelines do not cover offenses defined in either §§ 18.2-31 or 18.2-186.4. Such convictions, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice, the proposal is not expected to increase juvenile correctional center bed space needs.

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

² Department of Corrections, *State Responsible Offender Population Trends FY2006 - FY2010*, p. 14, http://www.vadoc.state.va.us/about/facts/research/new-statsum/offenderpopulationtrends_fy06-fy10.pdf.

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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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