



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 772 (Patron – Landes)

LD#: 12103896

Date: 1/17/2012

Topic: Definition of a 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:

The proposal would add full-time sworn investigators of the Office of the State Inspector General to the definition of “law enforcement officer” in § 9.1-101 of the *Code of Virginia*. Currently, four agencies have inspectors general: the Department of Corrections, the Department of Juvenile Justice, the Department of Transportation, and the Department of Behavioral Health and Developmental Services. Investigators with these offices are not currently included in the definition of a law enforcement officer under § 9.1-101. The 2011 General Assembly enacted legislation to consolidate these four offices into one office of the State Inspector General, effective July 1, 2012.

Because investigators with the inspectors general are not currently considered law enforcement officers, they are excluded from certain statutes that refer to the definition in § 9.1-101, including:

- Publishing an officer’s personal identifying information to coerce or harass (§ 18.2-186.4), a Class 6 felony, with a mandatory minimum sentence of six months; and
- Capital murder of a law enforcement officer (§ 18.2-31), for which the punishment is death or life in prison.

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 state-responsible (prison) sentence with a median 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 term of 10.7 years.

According to FY 2008 through FY 2011 data from CAIS, there have been no convictions involving use of a law enforcement officer's identity to coerce or harass in violation of § 18.2-186.4.

Impact of Proposed Legislation:

State adult correctional facilities. Expanding the existing definition of a law enforcement officer, as defined in § 9.1-101, to include investigators with the Office of the State Inspector General 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, the Office of the State Inspector General will likely employ a relatively small number of full-time sworn investigators. The Office of the State Inspector General will represent the consolidation of four existing offices of inspectors general by July 1, 2012. In a Fiscal Impact Statement prepared for the General Assembly in 2011, the Department of Planning and Budget noted that the four offices that will be consolidated included 99 full-time positions. If the Office of the State Inspector General keeps all of the positions that comprise the existing offices of inspectors general, the largest number of full-time sworn investigators that would be employed by the State Inspector General is 99 individuals. Since Inspector General investigators would represent, at most, 0.5 %¹ of the total number of sworn law enforcement officers, any impact that might be related to a larger number of officers against whom an offense could be committed would be quite small.

Second, offenders who might be convicted of capital murder of a law enforcement 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 sentences 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 a small number of additional 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.

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

² Virginia 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.

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.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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