



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 175

(Patron – Stuart)

LD#: 12103266

Date: 12/29/2011

Topic: Postrelease supervision of felons

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

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 890 of the 2011 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposed legislation amends §§ 18.2-10 and 19.2-295.2. Under the current provisions, if the court does not suspend at least six months of a sentence for a felony offense, the court must impose an additional term of confinement of not less than six months nor more than three years, which must be suspended conditioned upon successful completion of a period of postrelease supervision (the supervision period must also range from six months to three years). The Parole Board administers postrelease supervision and determines the appropriate conditions of supervision for an offender prior to his release. Terminations of postrelease are conducted in the same manner as releases from parole and parole revocations.

The proposal clarifies that the “additional term” required under § 18.2-10 is a period of incarceration. Furthermore, the proposal specifies that, if the court fails to impose and then suspend the additional term of incarceration as required by § 18.2-10, the term will automatically be set at six months. The proposal also sets a supervision period of six months if the court fails to specify a period of postrelease supervision as required by § 19.2-295.2. The replacement of the term “postrelease supervision” with “incarceration” in § 19.2-295.2 serves to reiterate the requirements set forth in § 18.2-10 relating to postrelease incarceration. The proposed amendments would apply to offenders sentenced on or after July 1, 2012.

Analysis:

According to Sentencing Guidelines data for fiscal year (FY) 2010 and FY2011, there were nearly 50,000 felony-sentencing events during the two-year period. Of the total, there were 2,052 sentencing

events in which the judge did not suspend any of the sentence imposed; included in this were 521 jury cases in which the judge imposed the jury's recommended sentence without modification.¹

Examining the cases with less than six months of suspended time, 1,262 (62%) did not have a postrelease term or supervision period recorded on the guidelines form. Another 180 cases had either a postrelease incarceration term or a post-release supervision period specified, but not both. Under the proposal, when a judge suspends less than six months of the sentence and fails to specify a postrelease term and/or supervision period, the term and/or supervision period would be set by statute at six months.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal will set a postrelease term of incarceration and supervision period in certain cases when the term and/or supervision period are not specified by the judge. Additional offenders will be subject to supervision in the community, and a portion of those offenders will violate the conditions of supervision and be returned to custody. In this way, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The number of additional revocations that may result from the proposal cannot be estimated; therefore, the magnitude of the impact cannot be determined.

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

Adult community corrections programs. Because it could result in additional offenders on community supervision, the proposal is expected to have an impact on adult community corrections resources. However, the potential impact on community corrections programs cannot be quantified.

Virginia's sentencing guidelines. Violations of postrelease supervision are administered by the Parole Board and are not covered by the sentencing guidelines as the primary (most serious) offense. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. Since postrelease incarceration and supervision only apply to convictions in circuit court, the Department of Juvenile Justice (DJJ) does not expect the proposal to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. Similarly, the Department of Juvenile Justice (DJJ) reports that the proposal will not affect bed space needs of juvenile detention facilities.

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 890 of the 2011 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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¹ Juries, by law, must impose at least the statutory minimum sentence specified in the *Code* and are not permitted to reduce or suspend any portion of the sentence. A judge may suspend a portion of the jury-imposed sentence, but circuit court judges rarely do so.