



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 708

Enrolled

(Patrons Prior to Enrollment – Gilbert and Ramadan)

LD#: Enrolled

Date: 3/25/2014

Topic: Assault and battery against a family member

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 806 of the 2013 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 § 18.2-57.2 to expand the list of offenses that may be counted as prior convictions for the purposes of enhancing the penalty for assault of a family or household member. Under the proposal, any previous conviction(s) for unlawful wounding in violation of § 18.2-51 or strangulation in violation of § 18.2-51.6 involving a family or household member could be counted as prior convictions in order to raise the penalty for a third conviction for assault and battery of a family or household member from a Class 1 misdemeanor to a Class 6 felony.

Currently, under § 18.2-57.2, an assault of a family or household member is a Class 6 felony only if it is alleged in the warrant, information, or indictment that the offender has been previously convicted of two assaults of a family or household member involving a violation of: § 18.2-57.2 (simple assault against a family member), § 18.2-51 (malicious wounding), § 18.2-51.2 (aggravated malicious wounding), § 18.2-52 (malicious injury by means of a substance, or any similar offense in another jurisdiction. Otherwise, assault of a family or household member is a Class 1 misdemeanor.

Analysis:

According to the most recent data from the Local Inmate Data System (LIDS) for fiscal year (FY) 2011 and FY2012, there were 5,658 offenders held pre- or post-trial in jail who were convicted of a Class 1 misdemeanor under § 18.2-57.2 for assaulting a family or household member. Of these offenders, the majority (76.8%) received a local-responsible (jail) term, for which the median sentence was 1.7 months. LIDS data do not capture individuals who were never booked into a local or regional jail.

The Sentencing Guidelines database for FY2012 and FY2013 indicates that 444 offenders were convicted of a felony under § 18.2-57.2(B) for a third assault against a family or household member. The assault was the primary, or most serious, offense in 404 of the cases. While slightly more than half (50.7%) of these offenders were sentenced to a local-responsible (jail) term with a median sentence of seven months, 17.3% did not receive an active term of incarceration to serve after sentencing. The remaining 31.9% received a state-responsible (prison) term with a median sentence of 1.5 years.

The number of offenders with convictions for unlawful wounding of a family member or strangulation who would subsequently be charged with a third family assault under § 18.2-57.2 is not known.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of a felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not provide sufficient detail to estimate the number of new felony convictions likely to result from enactment of the proposal. As a result, the magnitude of the impact on prison beds cannot be quantified.

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

Adult community corrections programs. Because the proposal could result in felony 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. The sentencing guidelines cover felony violations of § 18.2-57.2 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 (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal's impact 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 806 of the 2013 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.