



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 448 (Patron – Norment)

LD#: 14102054

Date: 12/22/2013

Topic: Hazing

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$105,292 (4 beds)
- **Local Adult Correctional Facilities:**
\$7,548 (1 bed)
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

Currently, under § 18.2-56, hazing any student at any school, college, or university so as to cause bodily injury is punishable as a Class 1 misdemeanor. For the purposes of this section, the term “hazing” is defined as recklessly or intentionally endangering the health or safety of a student or inflicting bodily injury on a student in connection with membership in a club, organization, association, fraternity, sorority, or student body.

Under the proposal, the penalty for hazing under § 18.2-56 would be increased to a Class 6 felony, which is punishable by one to five years imprisonment. The proposal also requires that the Department of Education and the State Council of Higher Education for Virginia establish model policies regarding the prevention of, and appropriate disciplinary action for, hazing. In addition, under the proposal, a school’s policies and procedures regarding hazing must be consistent with the model policies that would be established.

Analysis:

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2012 and FY2013, a conviction for hazing under § 18.2-56 was the primary, or most serious, offense in four cases sentenced during this time period. While two of these offenders did not receive an active term of incarceration to serve after sentencing, the remaining two offenders received local-responsible (jail) terms of one and 2.8 months, respectively. Circuit Court CMS data for this time period indicate that a

misdemeanor conviction for hazing under § 18.2-56 was the primary offense in six additional cases¹. Five of these offenders did not receive an active term of incarceration to serve after sentencing, while the remaining offender was sentenced to two months in jail.

Regarding the Department of Juvenile Justice (DJJ), Court Service Units serve as the point of entry into the juvenile justice system. An “intake” occurs when a juvenile is brought before a court service unit officer for one or more alleged law violations. The DJJ reports that there have been no petitioned intake cases or commitments for a violation of § 18.2-56 in the past five fiscal years.

Impact of Proposed Legislation:

State adult correctional facilities. By elevating the penalty for hazing under § 18.2-56 from a Class 1 misdemeanor to a Class 6 felony, the proposal is expected to increase the future state-responsible (prison) bed space needs of the Commonwealth. The impact on state-responsible (prison) beds is estimated to be four beds by FY2020. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$105,292.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY15	FY16	FY17	FY18	FY19	FY20
1	3	3	3	3	4

Local adult correctional facilities. The proposal is also expected to increase the future need for local-responsible (jail) beds. The impact on local-responsible (jail) beds is estimated to be one bed by FY2020 (state costs: \$7,548; local costs: \$11,117).

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY15	FY16	FY17	FY18	FY19	FY20
1	1	1	1	1	1

Adult community corrections programs. Raising a crime from a Class 1 misdemeanor to a Class 6 felony may decrease the demand for local community-based probation services and increase the need for state community corrections resources. The *Code of Virginia*, however, allows judges to utilize local community-based probation programs for Class 5 and Class 6 felons as well as misdemeanants. The net impact on state community corrections resources and local community-based probation services cannot be estimated.

Virginia’s sentencing guidelines. As a new felony offense, convictions § 18.2-56 would not be covered by the sentencing guidelines as the primary (most serious) offense in a case; however, convictions for this crime may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), since the penalty for a violation of § 18.2-56 would be increased from a Class 1 misdemeanor to a Class 6 felony, the minimum length of stay for any juveniles who may be committed in the future for this offense would increase by a minimum of three months. However, the impact of the proposal on bed space needs for juvenile correctional centers cannot be determined.

¹ Cases that were processed in circuit court as the result of an appeal from General District or Juvenile and Domestic Relations Court were excluded.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal would increase the likelihood that juveniles brought before an intake officer on this offense would be detained in a juvenile detention facility due to the Detention Assessment Instrument (DAI) score being impacted by a Class 6 felony (rather than a Class 1 misdemeanor). However, given the limited historical data, the exact impact cannot be quantified.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$105,292 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.

Assumptions underlying the adult state-responsible and local-responsible analyses include:

General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2013.
2. New cases resulting in state-responsible sentences were based on forecasts developed by the Secretary of Public Safety's Committee on Inmate Forecasting and approved in 2013.
3. Cost per prison bed was assumed to be \$30,006 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2012 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$28.04 per day or \$10,242 per year. The local cost was calculated by using the daily expenditure cost of \$73.83 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$41.30 per day or \$15,085 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

Assumptions relating to sentence lengths

1. The impact of the proposed legislation, which would be effective on July 1, 2014, is phased in to account for case processing time.
2. To gauge the impact on sentencing, it was assumed that the distribution of sentences for the affected cases will be similar to the distribution of sentences for unlawful wounding, a Class 6 felony under § 18.2-51.
3. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2012. For assaults, this rate was 9.3%.

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