



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 376

(Patron – Pogge)

LD #: 16102863

Date: 1/5/2016

Topic: Sworn municipal park rangers as law-enforcement officers

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**

**Provided by the Department of Juvenile Justice

* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 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 several sections of the *Code of Virginia* to expand the definition of law-enforcement officer to include sworn municipal park rangers appointed pursuant to § 19.2-12. Affected code sections include § 18.2-460 (obstruction of justice), § 18.2-461 (making a false report to a law-enforcement officer), § 18.2-479 (escape without force or violence), and § 46.2-817 (disregard signal by law-enforcement officer to stop).

Currently, under § 18.2-460, it is a Class 1 misdemeanor to obstruct a judge, magistrate, justice, juror, attorney for the Commonwealth, witness, law-enforcement officer, or animal control officer, or to attempt to intimidate or impede any such individual by threats or force. Any violation committed using threat of bodily harm or force in relation to certain drug, gang, or violent offenses is a Class 5 felony.

A violation of § 18.2-461 for making a false report to a law-enforcement officer is punishable as a Class 1 misdemeanor. Under § 18.2-479, escape without force or violence while on probation or parole, or in relation to a misdemeanor charge or conviction, is a Class 1 misdemeanor. Escape without force or violence while in custody on a charge or conviction of a felony is a Class 6 felony.

Violations of § 46.2-817 for disregarding a signal by a law-enforcement officer to stop are Class 2 misdemeanors. However, if the behavior endangers another, the penalty is increased to a Class 6 felony. Additionally, if the law-enforcement officer is killed as a direct result of a pursuit due to this violation, the violation is a Class 4 felony.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015, 76 offenders were convicted of a Class 5 felony under § 18.2-460 for obstruction of justice. The obstruction of justice conviction was the primary, or most serious, offense in 42 of the cases. Of these, 47.6% received a local-responsible (jail) term, with a median sentence of five months. Another 19.1% of offenders received state-responsible (prison) terms, for which the median sentence was 1.25 years. The remaining 33.3% of offenders did not receive an active term of incarceration to serve after sentencing.

General District Court CMS data for FY2014 and FY2015 indicate that 3,859 offenders were convicted of a Class 1 misdemeanor under § 18.2-460 for obstruction of justice. Over half (55.2%) of these offenders did not receive an active term of incarceration to serve after sentencing. The median sentence for the remaining 44.8% who were sentenced to a local-responsible (jail) term was one month.

According to General District Court CMS data the same two-year period, 1,251 individuals were convicted of a Class 1 misdemeanor under § 18.2-461 for making a false report to a law-enforcement officer. Slightly more than two-thirds (67.1%) of these offenders did not receive an active term of incarceration to serve after sentencing, while 32.9% received a local-responsible (jail) term, for which the median sentence was 20 days.

General District Court CMS data for FY2014 and FY2015 indicate that 67 offenders were convicted of a Class 1 misdemeanor under § 18.2-479(A) for escape without force or violence. Of these offenders, 17.9% did not receive an active term of incarceration to serve after sentencing. The median sentence for the remaining 82.1% who were sentenced to a local-responsible (jail) term was two months.

Circuit Court CMS data for FY2014 and FY2015 indicate that 43 offenders were convicted of a Class 6 felony under § 18.2-479(B) for felony escape without force or violence. The escape was the primary offense in 22 cases. Of these, 9.1% did not receive an active term of incarceration to serve after sentencing. An additional 22.7% received a local-responsible (jail) term with a median sentence of six months. The remaining 68.2% received a state-responsible (prison) term with a median of 1.5 years.

According to FY2014-FY2015 Sentencing Guidelines data, 712 offenders were convicted of a Class 6 felony for eluding police under § 46.2-817(B) as the primary (most serious) offense at sentencing. Of these, 10.1% did not receive an active term of incarceration to serve after sentencing. Slightly more than one-third (35.4%) were sentenced to local-responsible (jail) terms, with a median sentence of six months. The remaining 54.5% received a state-responsible (prison) term, with a median sentence of 1.3 years.

Circuit Court CMS data for FY2010 through FY2015 indicated that one offender was convicted of a Class 4 felony under § 46.2-817(C) for eluding resulting in the death of a law-enforcement officer. This offender did not receive an active term of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of existing felonies, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result from enactment of the proposal cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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 state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia’s sentencing guidelines. The sentencing guidelines cover felony violations of § 18.2-817(B) when this offense is the primary, or most serious, offense in a case. Other felony convictions under § 18.2-817, as well as §§ 18.2-460, 18.2-461, and 18.2-479, are not covered by the sentencing guidelines when the offense is the primary offense in a case. However, convictions under these statutes 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 impact of the proposal on juvenile correctional center 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 665 of the 2015 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.

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