



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 511 (Patron – Sturtevant)

LD#: 16103872

Date: 1/12/2016

Topic: Battery of school employees

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
At least \$49,214 (2 beds)
- **Local Adult Correctional Facilities:**
At least \$8,946 (1 bed)
- **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

Summary of Proposed Legislation:

Currently, under § 18.2-57(D), assault and battery of a teacher, principal, or other elementary or secondary school employee is punishable as a Class 1 misdemeanor and carries a mandatory minimum term of confinement of two days. The mandatory minimum is six months if the offense is committed with a firearm or other weapon prohibited on school property. The proposal increases the penalty for this offense to a Class 6 felony, which is punishable by one to five years imprisonment. The proposal also establishes a six month mandatory minimum term of incarceration for this offense that would apply regardless of whether a weapon was used. In addition, the proposal expands the applicability of the penalty enhancements to include the battery of teachers, principals, and other employees of preschools.

Analysis:

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2014 and FY2015, a conviction for misdemeanor assault and battery against a teacher, principal, or other elementary or secondary school employee under § 18.2-57(D) was the primary, or most serious, offense at sentencing in five cases during the two-year period. Four of these offenders were sentenced to a local-responsible (jail) sentence with a median sentence of 15 days. The other offender was not given an active term of incarceration to serve after sentencing.

Existing data sources do not contain sufficient detail to identify cases in which an offender assaulted a preschool teacher, etc.

Impact of Proposed Legislation:

State adult correctional facilities. By increasing the penalty for assault and battery against a teacher, principal, or other school employee from a Class 1 misdemeanor to a Class 6 felony, and including a six month mandatory minimum term of incarceration, 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 at least two beds by FY2022. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$49,214. This is a minimum estimate, as existing data sources do not provide sufficient detail to identify cases involving the battery teachers, principals, and other employees of preschools.

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

FY17	FY18	FY19	FY20	FY21	FY22
1	1	1	2	2	2

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 at least one bed by FY2022 (state costs: at least \$8,946; local costs: at least \$13,149).

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

FY17	FY18	FY19	FY20	FY21	FY22
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. Data are not available to estimate the net impact on local and state community corrections resources that may result from the proposal.

Virginia’s sentencing guidelines. Felony convictions under the proposed modifications to § 18.2-57(D) 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), 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 is at least \$49,214 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 analysis 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 2015.
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 2015.
3. Cost per prison bed was assumed to be \$31,406 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 FY2014 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$30.57 per day or \$11,166 per year. The local cost was calculated by using the daily expenditure cost of \$78.53 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 \$44.93 per day or \$16,411 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 offenders

1. Eligible offenders were identified as those whose primary offense was a conviction under § 18.2-57(D) for assault and battery against a teacher, principal, or other elementary or secondary school employee in General District Court. Existing data sources do not provide sufficient detail to identify cases involving the battery of employees of preschools.
2. It was assumed that prosecutors would charge all eligible offenders under the felony provisions.

Assumptions relating to sentencing

1. The impact of the proposed legislation, which would be effective on July 1, 2016, is phased in to account for case processing time.
2. 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, 2014. For assault convictions, this rate was 9.1%.
3. 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 under the existing provision for assault and battery of a law enforcement officer under § 18.2-57(C).

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