



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1769 (Patron – Dudenhefer)

LD#: 17101618

Date: 1/5/2017

Topic: Acts against Military Personnel

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Direct Care:**
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 780 of the 2016 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 § 18.2-51.1 of the *Code of Virginia*, concerning bodily injury of certain individuals. Currently, under § 18.2-51.1, malicious bodily injury to a law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel is a felony punishable by five to 30 years imprisonment and requires a two-year mandatory minimum term. Additionally, unlawful (but not malicious) injury to a member of the aforementioned groups is punishable as a Class 6 felony and carries a one-year mandatory minimum term. The proposal expands these provisions to make malicious or unlawful injury of members of the United States Armed Forces, including members of the Virginia National Guard, subject to the same penalties that apply when the victim is a law enforcement officer, etc.

Additionally, the proposal amends § 18.2-57.01, relating to pointing lasers at certain individuals. Currently, under § 18.2-57.01, intentionally projecting a beam or point of light from a laser, a laser gun sight, or any device that simulates a laser at a law-enforcement officer, probation or parole officer, or a correctional officer is punishable as a Class 2 misdemeanor. The proposal expands this statute to prohibit the pointing of lasers at members of the United States Armed Forces or the Virginia National Guard.

Analysis:

According to the Sentencing Guidelines database for fiscal year (FY) 2015 and FY2016, 27 offenders were convicted of a felony under § 18.2-51.1 for causing injury to a law-enforcement officer, firefighter, or EMS personnel. Malicious bodily injury was the primary, or most serious, offense in 16 of the cases.

All of these offenders received a state-responsible (prison) term, with a median sentence of four years. The most serious offense was unlawful bodily injury of a law-enforcement officer, etc., in six of the cases. All of these offenders received a state-responsible (prison) term, for which the median sentence was 1.5 years.

According to the General District Court Case Management System (CMS) for FY2011 through FY2016, eight offenders were convicted of a Class 2 misdemeanor under § 18.2-57.01 for pointing a laser at a law enforcement officer, probation or parole officer, or correctional officer. Of these, the violation of § 18.2-57.01 was the most serious offense in six cases. None of these individuals received an active period of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of existing felonies under § 18.2-51.1, the proposal may increase the 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 that may result from enactment of the proposal. As a result, the magnitude of the impact on prison bed space needs cannot be quantified.

Local adult correctional facilities. Similarly, the proposal may increase the local-responsible (jail) bed space needs, but 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. Felony convictions under § 18.2-51.1 are covered by the sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) 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 780 of the 2016 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.