



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1058 (Patron – Stuart)

LD#: 17101260

Date: 1/5/2017

Topic: Riots and unlawful assemblies

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 §§ 18.2-405, 18.2-406, and 18.2-408 of the *Code of Virginia* regarding riots and unlawful assemblies. Currently, under §§ 18.2-405 and 18.2-406, any person convicted of participating in a riot or an unlawful assembly is guilty of a Class 1 misdemeanor; if the offender carries a firearm or other deadly or dangerous weapon at the time of his participation, he is guilty of a Class 5 felony. The proposal amends §§ 18.2-405 and 18.2-406 such that any person convicted of participating in a riot or an unlawful assembly that blocks a public highway would be guilty of a Class 6 felony.

Under the current § 18.2-408, any person who conspires with others to cause a riot or incites others who participate in a riot to acts of force or violence is guilty of a Class 5 felony. The proposal would make conspiring to cause a riot or inciting others to participate in a riot a Class 4 felony if another person is injured during such a riot.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2011 through FY2016, three offenders were convicted of a Class 5 felony under § 18.2-405 for participating in a riot while carrying a firearm or other deadly weapon. This offense was the primary, or most serious, offense for two offenders, who were sentenced to serve state-responsible (prison) terms of one year each. Two other offenders were convicted of a felony under § 18.2-408 for conspiring to cause a riot or inciting others to riot; these two offenders received local-responsible (jail) terms of six months each. No felony convictions under § 18.2-406 were observed during this time period.

According to General District Court CMS data for FY2011 through FY2016, four offenders were convicted of a Class 1 misdemeanor for participating in a riot under § 18.2-405. Two of the four offenders (50%) did not receive an active term of incarceration to serve after sentencing. The remaining two offenders received jail terms of 10 days and two months, respectively. In addition, 15 offenders were convicted of participating in an unlawful assembly under § 18.2-406. Of these, 93% did not receive an active term of incarceration to serve after sentencing, while the remaining offender was sentenced to serve two days in jail.

Impact of Proposed Legislation:

State adult correctional facilities. By creating new felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Existing data sources do not contain sufficient detail to estimate the number of additional felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

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

Adult community corrections resources. Because the proposal could result in 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 affected cannot be determined, the potential impact on community corrections cannot be quantified.

Virginia's sentencing guidelines. The sentencing guidelines do not cover violations of §§ 18.2-405, 18.2-406, and 18.2-408 that are processed in Virginia's circuit courts. However, such convictions may 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 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.