



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 374 (Patron – Yancey)

LD#: 18102005

Date: 12/28/2017

Topic: Injury to law-enforcement officers or police animals

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 836 of the 2017 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 one of the above groups is punishable as a Class 6 felony and carries a one-year mandatory minimum term. According to the proposal, if a member of one of the above groups, engaged in the performance of his duties, is exposed to a controlled substance and suffers bodily injury as a result of such exposure, the person who knowingly or intentionally possessed the controlled substance is guilty of a Class 6 felony.

Additionally, the proposal amends § 18.2-144.1 prohibiting the killing of, or malicious injury to, police animals. This offense is currently a Class 5 felony. Under the proposal, if an animal owned, used, or trained by law-enforcement is exposed to a controlled substance and suffers bodily injury as a result of such exposure, the person who knowingly or intentionally possessed the controlled substance is guilty of a Class 6 felony.

Analysis:

According to the Sentencing Guidelines database for fiscal year (FY) 2016 and FY2017, 22 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 14 of the cases. All of these offenders received a state-responsible (prison) term, with a median sentence of five years. In four of the cases, the most serious offense was unlawful bodily injury of a law-enforcement officer, etc. Among these offenders, three received a state-responsible (prison) term for which the median sentence was 1.5 years. The remaining offender, who was convicted of attempted unlawful bodily injury of a law-enforcement officer, etc., received a local-responsible (jail) term of six months.

According to the Circuit Court Case Management System (CMS) for FY2016 and FY2017, six offenders were convicted of felony violations under § 18.2-144.1 for killing or maliciously wounding a police animal. Of these, the violation of § 18.2-144.1 was the most serious offense in only one case, and this offender did not receive an active period of incarceration to serve after sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it adds new felony offenses under §§ 18.2-51.1 and 18.2-144.1, 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. Convictions under § 18.2-144.1 are not covered; however, convictions under this statute 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 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 836 of the 2017 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.