



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 931

(Patron – Lopez)

LD #: 18103245

Date: 12/28/2017

Topic: Assault and battery of public transportation operators

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 increases the penalty for battery of public transportation operators from a Class 1 misdemeanor to a Class 6 felony. Under § 18.2-57, any person who commits simple assault or assault and battery is guilty of a Class 1 misdemeanor. The penalty is increased to a Class 6 felony (with a six-month mandatory minimum sentence) if the victim is a law enforcement officer, correctional officer, firefighter, emergency medical services provider, magistrate, judge or other designated professional. Under the proposal, it would be a Class 6 felony to commit battery against a public transportation operator engaged in the performance of his or her duties. The proposed felony would not include a mandatory minimum sentence.

Assault of a law enforcement officer has been a Class 6 felony with a six-month mandatory minimum sentence since July 1, 1997. Since 2006, the General Assembly has extended this Class 6 felony to cover assaults committed against other individuals, including judges, full-time sworn members of the enforcement division of the Department of Motor Vehicles, fire marshals who have been granted police powers, special agents of the Department of Alcoholic Beverage Control, magistrates, certain employees of local and regional jails, and any individual directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or sexually violent predators in the custody of the Department of Behavioral Health and Developmental Services. Under § 18.2-57, battery of a teacher is a Class 1 misdemeanor requiring a two-day mandatory minimum term of confinement or, if committed using a weapon prohibited on school property, a mandatory minimum term of six months. Battery of a health care provider is also a Class 1 misdemeanor requiring a minimum of two days confinement.

Analysis:

According to fiscal year (FY) 2016 and FY2017 Sentencing Guidelines data, 1,015 offenders were convicted of a felony for assault or assault and battery of a law enforcement officer, correctional officer, firefighter, etc., under § 18.2-57(C) during the two-year period. In 805 of the cases, a completed assault was the primary, or most serious, offense. More than half of the offenders (58.8%) received a local-responsible (jail) sentence for which the median sentence was seven months. For the 38.9% of offenders who were given a state-responsible (prison) term, the median sentence length was 1.5 years. The remaining 2.2% were sentenced to the time served by the offender while awaiting trial.

General District Court CMS data for FY2016 and FY2017 indicate that 66 offenders were convicted of a misdemeanor under § 18.2-57 for committing battery against a teacher or health care provider. The median jail sentence in these cases was one month.

According to Hampton Roads Transit (HRT), there were 17 verified physical assaults of HRT operators between January 1, 2013, and October 31, 2016.¹ However, statewide data on the number of physical assaults or acts of battery committed against public transportation operators could not be identified.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new Class 6 felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that could result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

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 additional offenders, the proposal may increase the need for adult community corrections resources. However, the impact on community corrections cannot be calculated.

Virginia's sentencing guidelines. Felony convictions for assaulting a law enforcement officer, firefighter, etc., (§ 18.2-57(C)) are covered by the sentencing guidelines. The new felony proposed would not be covered by the guidelines as the primary, or most serious, offense. Such a conviction, however, could augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines is 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.

¹ Hampton Roads Transit, Meeting of the Operations and Oversight Committee, December 1, 2016.

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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