



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 666 (Patron – Deeds)

LD#: 18100309

Date: 10/25/2017

Topic: Impersonating military members

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 § 18.2-174.1 of the *Code of Virginia* regarding impersonating certain public safety personnel. Currently, under this section, any person who willfully impersonates, with the intent to make another believe he is, an emergency medical services provider, firefighter, special forest warden, fire marshal, or fire chief is guilty of a Class 1 misdemeanor. A second or subsequent offense is punishable as a Class 6 felony. The proposal expands § 18.2-174.1 to include impersonation of a member of the United States Armed Forces, Armed Forces Reserves, or National Guard.

Under § 18.2-177.1, it is a Class 1 misdemeanor for any person, with the intent to obtain any services, to falsely represent oneself to be (i) a member or veteran of the United States Armed Forces, Armed Forces Reserves, or National Guard, or (ii) a recipient of any decoration or medal created to honor such individuals. This offense was created during the 2016 General Assembly session and became effective on July 1, 2016.

Analysis:

Existing data sources do not contain sufficient detail to identify cases that would be affected by the proposal. However, individuals convicted under the proposal may be sentenced similarly to offenders who are convicted under the existing felony provisions of § 18.2-174.1.

According to the General District Court Case Management System (CMS) for fiscal year (FY) 2012 through FY2017, 19 offenders were convicted of a Class 1 misdemeanor under § 18.2-174.1 for impersonating an emergency services provider. The majority of these offenders (78.9%) did not receive an active term of incarceration to serve after sentencing. The remaining four offenders (21.1%) received local-responsible (jail) terms with a median sentence of two months.

The felony provisions of § 18.2-174.1 became effective on July 1, 2013. According to Circuit Court CMS data for FY2014 to FY2017, three offenders were convicted of a second or subsequent violation of § 18.2-174.1. This was the primary, or most serious, offense at sentencing for one offender, who was sentenced to serve one month in jail. The other two offenders were convicted of this crime as an additional offense to a more serious felony.

According to General District Court CMS data for FY2017, there were no misdemeanor convictions under § 18.2-177.1 for impersonating a member or veteran of the military with the intent to obtain services.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of an existing felony offense, the proposal may increase the future 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 programs cannot be calculated.

Virginia's sentencing guidelines. Felony convictions under § 18.2-174.1 are not covered by the sentencing guidelines when this offense is the primary, or most serious, offense in a case. 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 (DJJ), the impact of the proposal on direct care (juvenile correctional center or an 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.

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