



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 4030

(Patron – Gilbert)

LD#: 19200288

Date: 07/10/2019

Topic: Domestic assault and battery

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
None (\$0)
- **Local Adult Correctional Facilities:**  
\$484,725 (39 beds)
- **Adult Community Corrections Programs:**  
None (\$0)

- **Juvenile Direct Care:**  
Cannot be determined \*
- **Juvenile Detention Facilities:**  
Cannot be determined \*

\* Provided by the Department of Juvenile Justice

#### Summary of Proposed Legislation:

The proposal amends § 18.2-57.2, relating to assault and battery against a family or household member. Currently, under § 18.2-57.2(A), this offense is punishable as a Class 1 misdemeanor. Under § 18.2-57.2(B), the penalty for assault and battery of a family or household member is elevated to a Class 6 felony if it is alleged in the warrant, petition, information or indictment that the offender has been previously convicted of any two of the specified offenses against a family or household member.

The proposal would require that the penalty for a misdemeanor assault and battery against a family or household member include a mandatory minimum term of confinement of 60 days if it is alleged that the offender has been previously convicted of a single specified offense against a family or household member.

#### Analysis:

During fiscal year (FY) 2017 and FY2018, a total of 11,149 offenders were convicted of a Class 1 misdemeanor under § 18.2-57.2 (as the primary, or most serious, offense) in General District Court, Juvenile and Domestic Relations Court, or Circuit Court. Examining court data for FY2009 through FY2018 reveals that 1,513 of these offenders had one prior misdemeanor conviction for the same offense. If § 18.2-57.2 were amended as proposed, these 1,513 offenders would be subject to the mandatory minimum term of confinement.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** Since the proposal establishes a mandatory minimum jail term for the commission of certain misdemeanor offenses, the proposal is not expected to increase the state-responsible (prison) bed space needs of the Commonwealth.

**Local adult correctional facilities.** The proposal is expected to increase the need for local-responsible (jail) beds. The impact on local-responsible (jail) beds is estimated to be 39 beds by December 2025 (state costs: \$484,725; local costs: \$709,708).

#### Estimated Six-Year Impact in Local-Responsible (Jail) Beds

Dec. 2020	Dec. 2021	Dec. 2022	Dec. 2023	Dec. 2024	Dec. 2025
36	39	39	39	39	39

**Adult community corrections programs.** The proposal is not expected to increase the need for community corrections resources and will delay the need for services for affected offenders affected by the proposal, as they will serve longer jail terms prior to being released to the community.

**Virginia's sentencing guidelines.** Felony convictions under § 18.2-57.2 are covered by the sentencing guidelines. Misdemeanor convictions are covered only when they accompany a felony that is covered by the guidelines. The misdemeanor conviction may augment the guidelines recommendation in such cases. 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 is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

#### Assumptions underlying the analysis include:

##### General Assumptions

1. State and local responsibility is based on § 53.1-20 as analyzed for the Secretary of Public Safety's Committee on Inmate Forecasting in 2018.
2. New cases resulting in state-responsible sentences were based on forecasts developed by the Secretary of Public Safety's Committee on Inmate Forecasting and approved in 2018.
3. Cost per prison bed was assumed to be \$35,053 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2017 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$33.83 per day or \$12,356 per year. The local cost was calculated by using the daily expenditure cost of \$85.98 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$49.53 per day or \$18,091 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

##### Assumptions relating to sentencing and time served

1. The impact of the proposed legislation, assumed to be effective on January 1, 2020, is phased in to account for case processing time.
2. Identified offenders meeting the assumptions for the proposed mandatory minimum who received sentences less than the proposed mandatory minimum were assumed to serve the mandatory minimum term specified in the

proposal. Offenders currently receiving sentences exceeding the proposed mandatory minimum were assumed to be unaffected by the proposed legislation.

3. If an offender was convicted of multiple counts, the mandatory minimum terms were assumed to run consecutively.<sup>1</sup>

**Limitations**

1. The Circuit Court Case Management System does not include cases from Fairfax or Alexandria.

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<sup>1</sup> Analysis revealed that, in 96.9% of cases, judges set multiple mandatory minimum sentences to run consecutively (2010 Annual Report of the Virginia Criminal Sentencing Commission).