



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 5057 ***(Patrons – Reeves and DeSteph)***

LD#: 10200185

Date: 07/31/2020

Topic: 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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Summary of Proposed Legislation:

The proposal amends § 18.2-406 of the *Code of Virginia*, relating to unlawful assemblies. Currently, under § 18.2-406, participating in an unlawful assembly is a Class 1 misdemeanor or, if the individual carried a firearm or other deadly weapon during the unlawful assembly, a Class 5 felony.

Under the proposal, the penalty would increase to a Class 6 felony if a person commits an act of violence (as defined in § 19.2-297.1) during the unlawful assembly. The proposal would also increase the penalty for carrying a firearm or other deadly weapon during an unlawful assembly from a Class 5 to a Class 4 felony and expand this felony to include any possession of a firearm or other deadly weapon during an unlawful assembly.

Analysis:

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2014 through FY2019, no felony convictions under § 18.2-406 were observed during this time period.

According to General District Court CMS data for FY2014 through FY2019, three offenders were convicted of a Class 1 misdemeanor for participating in an unlawful assembly under § 18.2-406. Of these, two did not receive an active term of incarceration to serve after sentencing, while the remaining offender was sentenced to serve one day in jail.

Impact of Proposed Legislation:

State adult correctional facilities. By creating a new felony offense, expanding the potential applicability of an existing felony, and increasing the penalty for the current felony, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. However, existing data sources do not contain sufficient detail to estimate the number of additional felony convictions that may occur following 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 felony violations of § 18.2-406 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 1289 of the Acts of Assembly of 2020 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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