



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill 294 ***(Patron—Cornett)***

LD#: 26103868

Date: 1/7/2025

Topic: Assault of correctional officers

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, likely negligible**
- **Juvenile Detention Facilities:**
Cannot be determined, likely negligible**

**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 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal amends § 18.2-51.1, broadening the applicability of offenses prohibiting the malicious or unlawful wounding of certain professions. Currently, the statute punishes the malicious wounding of law enforcement officers, firefighters, search and rescue personnel, and emergency services personnel with an unclassified felony that allows for up to 30 years of incarceration, including a mandatory minimum term of 2 years. In addition, the current statute punishes the unlawful wounding of the same professions with a Class 6 felony with a mandatory minimum term of 1 year. These offenses are separate from the generic malicious and unlawful wounding offenses laid out by §§ 18.2-51 and 18.2-41, which apply to all people not employed in one of the stated professions.

The proposal adds correctional officers, as defined in § 53.1-1, to the list of professions protected from malicious or unlawful wounding during the performance of their duties by § 18.2-51.1.

Analysis:

Sentencing Commission staff attempted to analyze the fiscal impact of the proposal, but the statistical assumptions required for this analysis, including that correctional officers would be subject to malicious and unlawful wounding at the same rate as law enforcement officers, were deemed too tenuous to substantiate a fiscal estimate. In addition, Sentencing Commission staff contacted the Department of Corrections (DOC) for information on the number of attacks on sworn correctional officers, with a particular interest in attacks leading to convictions for malicious or unlawful wounding. The DOC never provided this information to the Sentencing Commission, making an accurate fiscal projection impossible.

Unable to create a fiscal projection, Sentencing Commission staff turned to historical data. A review of Fiscal Year (FY) 2024 through FY2025 Sentencing Guidelines (SG) data revealed that 11 offenders were convicted of unlawful wounding (including inchoate offenses) under § 18.2-51.1. In 8 of those cases, the unlawful wounding was the primary, or most serious, offense. Of these 8 offenders, 2 received no incarceration, 1 received a local-responsible (jail) sentence of 5 months, and the remaining 8 offenders were given a state-responsible (prison) sentence with a median length of 2.0 years.

The same dataset showed 25 convictions for malicious wounding under § 18.2-51.1. In 21 of those cases, malicious wounding was the primary offense. Two of these offenders received no incarceration. Another 2 received local-responsible (jail) sentences of 5 months and 6 months, and the remaining 17 offenders received a state-responsible (prison) sentence with a median sentence length of 4.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. By expanding the applicability of two felonies, the proposed legislation may increase the future state-responsible (prison) bed space needs of the Commonwealth. If correctional officers are subjected to malicious and unlawful wounding at the same rate as law enforcement, then the fiscal impact of the proposal is estimated to be at least \$7,266 (1 partial bed). However, staff felt that this assumption couldn't be substantiated. Without data from DOC to support an analysis, the proposal's fiscal impact cannot be quantified with any confidence.

Local adult correctional facilities. Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be estimated.

Adult community corrections resources. Because the proposal could result in additional felony convictions with supervision requirements for the offenders, the proposal may affect adult community corrections programs. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's Sentencing Guidelines. Both the malicious and unlawful wounding of protected professions under §18.2-51.1 are currently covered by the Sentencing Guidelines. For Guidelines purposes, both felonies are defined as violent (§ 17.1-805(C)). No adjustment to the Guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase direct care (juvenile correctional center or alternative commitment placement) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal will not increase the bed space needs of juvenile detention facilities.

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 725 of the Acts of Assembly of 2025 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.