Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1240
(Patrons – Norment et al.)

Date Submitted: 12/09/02   **LD #:** 03-8779228

Topic: Appointment of special conservators of the peace

Proposed Change:

This proposal amends §§ 9.1-143, 15.2-1737, and 19.2-13 and adds §§ 9.1-150.1 through 9.1-150.4 to the *Code of Virginia..*   The proposal:

- Adds an additional member to the Private Securities Services Advisory Board who must be a special conservator of the peace appointed pursuant to § 19.2-13;
- Revises provisions for appointing special conservators of the peace, including but not limited to allowing a sheriff or police chief to apply to the circuit court for a special conservator to be appointed;
- Defines duties and powers of the Board of the Department of Criminal Justice Services relating to special conservators of the peace;
- Amends authority, jurisdiction, bond, and liability of special conservators of the peace; and
- Establishes penalties for willful violations of the provisions relating to conservators of the peace.

Two new crimes are defined by this proposal. Any person who willfully violates the provisions of §19.2-13, relating to conservators of the peace requirements, would be guilty of a Class 1 misdemeanor, punishable by up to 12 months incarceration. Any person who is convicted of a third or subsequent offense under this proposal within a 36-month period would be guilty of a Class 6 felony, punishable by one to five years incarceration.

As new crimes, convictions under the proposed legislation would not be covered by the guidelines as the primary, or most serious, offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction.

Current Practice:

Although the current *Code of Virginia* does not include offenses relating to conservators of the peace, there have been similar offenses for private security officers since 1996. For private security officers, it is a Class 1 misdemeanor to (1) misrepresent facts in an application for a license or registration, (2) practice without a license or registration, or, (3) refuse to furnish records. A third or subsequent offense under the private security officer requirements within a 36-month period is a Class 6 felony.   Based on FY2001and FY2002 Local Inmate Data System (LIDS) data, only one offender was convicted of practicing without a license or registration. That offender received a local-responsible sentence of two months. There were

no convictions for the other offenses in the LIDS database or the FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database.

Impact of Proposed Legislation:
The amendments to §§ 9.1-143, 15.2-1737, and 19.2-13 and addition of §§ 9.1-150.1 through 9.1-150.4 may have an impact on state-responsible (prison) beds. By establishing new crimes punishable as a Class 1 misdemeanor or a Class 6 felony, there is the possibility that persons may violate the statute and be sentenced to incarceration. However, criminal justice databases available to the Commission do not contain information on the number of incidences that may be affected by the proposal. Existing data sources show that there is currently only one conviction of a similar crime by a private security officer, who received a local-responsible sentence. Therefore, although the magnitude of the expected impact cannot be computed from existing data sources, any impact is likely to be small. Similarly, the impact on local-responsible (jail) bed space and community corrections cannot be quantified. Should a local-responsible impact result, the state's share for a jail inmate is about half (52%) of the cost for a prison inmate for the same length sentence.

No adjustment to the sentencing guidelines would be necessary under the proposal.

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 and $0 for periods of commitment to the custody of the Department of Juvenile Justice.

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