



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 801

(Patron – Reynolds)

Date Submitted: 11/22/00

LD #: 01-4518524

Topic: Abuse and neglect of incapacitated adults.

Proposed Change:

Amends §18.2-369 to clarify that abuse or neglect of an incapacitated adult which results in serious bodily injury or disease is punishable as a Class 6 felony, while abuse and neglect not resulting in serious bodily injury or disease is punishable as a Class 1 misdemeanor for a first offense and as a Class 6 felony for a second or subsequent offense. The definition of “serious bodily injury or disease” is also moved into the existing subsection of definitions.

Current Practice:

Currently, abuse or neglect of an incapacitated adult is punishable as a Class 1 misdemeanor unless (1) there has been a prior conviction for abuse or neglect, or (2) the abuse or neglect results in serious bodily injury or disease. In either circumstance, the crime becomes punishable as a Class 6 felony.

Based on FY1997 and FY1998 Pre/Post-Sentence Investigation (PSI) data, three offenders were convicted of felony abuse and neglect of an incapacitated adult as the primary, or most serious, offense. The offender sentenced for abuse or neglect resulting in serious bodily injury or disease was sentenced to four months. The two cases sentenced for a second or subsequent abuse or neglect received sentences of two and three months. However, offenses defined in §18.2-369 include misdemeanors. Information on misdemeanor violations is limited because the PSI database generally only captures those misdemeanor convictions that are accompanied by at least one felony. Based on the first nine months of 2000, there were only three arrests, but no convictions for the misdemeanor portion of §18.2-369 found in the Local Inmate Data System (LIDS).

Convictions under §18.2-369 are not covered by the guidelines as the primary offense, but augment the guidelines recommendation if a covered offense is the most serious at conviction.

Impact of Proposed Legislation:

The proposed legislation is not expected to have an impact on bed space. The proposal appears to be clarifying the existing crimes rather than defining new elements of the crime. No adjustment to the guidelines would be necessary under the proposal.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY02	FY03	FY04	FY05	FY06	FY07
0	0	0	0	0	0

Pursuant to §30-19.1:4, the estimated amount of the necessary appropriation is \$0.