



## Impact Analysis on Proposed Legislation

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*Virginia Criminal Sentencing Commission*

### **House Bill No. 244** **Amendment in the Nature of a Substitute** *(Patron Prior to Substitute – Drake)*

**Date Submitted:** 2/5/02

**LD #:** 02-4863736 (version 2)

**Topic:** Certain premises deemed common nuisance

#### **Proposed Change:**

Adds §§18.2-354 and 18.2-354.1 defining any building, vehicle, vessel, or aircraft frequented by persons engaged in or soliciting for prostitution, or which constitutes a bawdy place as defined in §18.2-347, as a common nuisance. Any owner or operator who knowingly permits such a common nuisance and fails to take reasonable action to remedy the problem is guilty of a Class 1 misdemeanor and, for a second or subsequent offense, a Class 6 felony. A court may order such premises closed or, conditioned that the premises shall not be used for unlawful purposes, turn the premises over to its owner or lessor. The penalties provided shall be in addition to any other provision of law, including termination of a tenancy as provided in Chapter 13 or Chapter 13.2 of Title 55. The attorney for the Commonwealth, or any citizen of the county, city or town where such a nuisance exists may sue to enjoin and restrain any owners, their agents, and any other person from contributing to or maintaining the nuisance, as provided for in the proposed §18.2-354.1.

#### **Current Practice:**

Currently, §18.2-347 prohibits keeping, residing in or frequenting a bawdy place for immoral purposes. A “bawdy place” means any place within or without any building or structure used or intended to be used for lewdness, assignation or prostitution. In addition, §18.2-348 prohibits aiding or assisting in prostitution, while §18.2-349 makes it unlawful to use any vehicle to promote prostitution or unlawful sexual intercourse. Any person convicted of violating any of the provisions of §§18.2-347 through 18.2-349 is guilty of a Class 1 misdemeanor.

Based on FY2001 Local Inmate Data System (LIDS) data, 22 offenders held pre- or post-trial in jail were convicted for misdemeanor violations of §§18.2-347 through 18.2-349. The majority (77%) were convicted of maintaining or frequenting a bawdy place. All of these offenders received local-responsible (jail) sentences ranging from 1 to 184 days, with a median sentence of 10 days. Three offenders were found guilty of aiding or assisting in prostitution, receiving jail sentences of 16, 20, and 90 days. Two offenders were convicted of using a vehicle to promote prostitution, and they received jail sentences of one and twelve months.

Misdemeanor convictions 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 creates a new crime for which no background data are available. Consequently, the impact on either state (prison) or local-responsible (jail) bed space cannot be quantified. It is possible that some of these offenses may be covered under the existing §§18.2-347 through 18.2-349. Repeat offenders, however, may now be subject to felony penalties under the proposal. LIDS data for the existing offenses indicate that the number of offenders is relatively small. It should be noted that a judge may suspend all or part of the sentences imposed for these crimes or set the sentences to run concurrently with sentences for other offenses. No adjustment to the guidelines is 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

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