



## **Impact Analysis on Proposed Legislation**

*Virginia Criminal Sentencing Commission*

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### **House Bill No. 260**

**Amendment in the Nature of a Substitute (02/20/02)**

*(Patron Prior to Substitute – McQuigg)*

**Date Submitted:** 02/21/02

**LD #:** 02-4752844

**Topic:** Infectious biological substances and imitations

#### **Proposed Change:**

Amends §18.2-52.1 to define a radiological agent, expand the definition of 'infectious biological substance' and to expand offense behaviors included under Sections A and B. The definition of 'infectious biological substance' would include listed substances capable of causing serious bodily injury or death. Under Section A, it would be a Class 5 felony to possess, manufacture, sell, give, distribute or use an infectious biological substance or radiological agent, capable of causing death or serious bodily injury, with the intent to injure another. Under Section B, it would be a Class 4 felony to damage, or attempt to damage or destroy, any facility, equipment or material involved in the sale, manufacturing, storage or distribution of an infectious biological substance or radiological agent, capable of causing death, with the intent to injure another through the release of the substance.

#### **Current Practice:**

Under §18.2-52.1, it is a Class 5 felony to possess an infectious biological substance capable of causing death with the intent to injure another. It is a Class 4 felony to damage or attempt to damage any facility, equipment or material involved in the sale, manufacturing, storage or distribution of an infectious biological substance, capable of causing death, with the intent to injure another. The definition of 'infectious biological substance' includes listed substances capable of causing death. Analysis of CY1999 and CY2000 data from the Pre/Post-Sentence Investigation (PSI) database reveals no felony convictions for violations of §18.2-52.1.

Convictions under §18.2-52.1 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 impact of the proposed legislation on state-responsible (prison) bed space cannot be quantified. PSI data indicate that there are no recent felony convictions for violations of the current statute. Nonetheless, expanding the definition of 'infectious biological substance' to include listed substances capable of causing serious bodily injury and expanding offense behaviors covered under Sections A and B could result in more cases. However, data is insufficient to determine the number of cases that could be affected. Therefore, based on these

new elements, the impact cannot be quantified. 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**