



## Impact Analysis on Proposed Legislation

*Virginia Criminal Sentencing Commission*

### House Bill No. 979

*(Patron – Pollard)*

**Date Submitted:** 12/12/01

**LD #:** 02-5900890

**Topic:** Threats to bomb or damage buildings or to release biological or chemical substances

#### **Proposed Change:**

Amends §18.2-83 to add the provision that any person who threatens injury to the person or property of another by the use of an infectious biological substance (as defined in §18.2-52.1), a chemical substance, or any radioactive material is guilty of a Class 5 felony. The proposal also eliminates the provision that an offender under the age of fifteen who violates §18.2-83 is guilty of a Class 1 misdemeanor.

#### **Current Practice:**

Currently, under §18.2-83, communicating a threat to bomb or in any manner damage any place of assembly, building, structure, or means of transportation is a Class 5 felony. It is also a Class 5 felony to communicate information known to be false regarding the existence of a bomb or other means of destruction affecting a place of assembly, building, structure or means of transportation. If the offender is under the age of fifteen, however, these offenses are punishable as Class 1 misdemeanors.

Felony convictions under §18.2-83 are covered by the sentencing guidelines as the primary (most serious) offense. Based on CY1999 and CY2000 Pre/Post-Sentence Investigation (PSI) data, 82 offenders were convicted of felony violations of §18.2-83 as the primary offense. Approximately one-fourth of those convicted (24%) received a state-responsible (prison) term, with a median sentence of just over 1.5 years (*Background Sentencing Information* below). Approximately 27% of those convicted received a local-responsible (jail) term, with a median sentence of six months. Almost one-half (49%) of the offenders were sentenced to probation.

Based on FY2001 Local Inmate Data System (LIDS) data, four offenders were convicted for misdemeanor violations of §18.2-83. These offenders were adults at the time of conviction. Two offenders were sentenced to probation, while the other two received local-responsible (jail) sentences of ten and forty days, respectively.

Virginia's sentencing guidelines cover felony convictions under §18.2-83. Not all offenders convicted of this offense are recommended for a prison term when this offense is the primary, or most serious, offense in a sentencing event. Due to the seriousness of additional or prior record offenses, one-third of offenders convicted under §18.2-83 (as the primary offense) and sentenced during FY2001 were recommended by the guidelines for a range of incarceration that includes a

prison term. When the guidelines called for prison, the median midpoint recommendation was 17 months.

**Background Sentencing Information**

Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Threat or false communication, offender 15 or over (§18.2-83)	82	49%	27%	24%	1.6 yrs.

Data Source: CY1999 and CY2000 Pre/Post-Sentence Investigation (PSI) database.

**Impact of Proposed Legislation:**

The impact of the proposed legislation on either state (prison) or local-responsible (jail) bed space cannot be quantified. The number of additional convictions under the expanded §18.2-83 due to the inclusion of threats by the use of biological, chemical, or radioactive substances cannot be determined. It is possible that some of these acts may be covered under other existing statutes, such as §18.2-60. Juveniles under the age of fifteen, previously convicted of misdemeanor violations of §18.2-83, would be subject to felony charges under the proposal. However, LIDS data indicates that the number of offenders of this type is relatively small. No adjustment to the guidelines is necessary under the proposal.

The Department of Juvenile Justice reports having three commitments under §18.2-83 who were less than 15 at the time of the offense. According to the Department, the length of stay would be expected to increase by about 2.6 months for each commitment.

**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 \$50,910.60 for periods of commitment to the custody of the Department of Juvenile Justice.**