



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 111 **Amendment in the Nature of a Substitute** **(Patron Prior to Substitute– Miller, Y.B.)**

Date Submitted: 02/07/02

LD #: 02-4735536

Topic: Burning an object on property of another or public place with intent to intimidate

Proposed Change:

Amends §18.2-423 to make the burning of an object on private property of another without permission, with the intent to intimidate any person or group of persons, a Class 6 felony. Also, it would be a Class 6 felony to burn an object on a highway or other public place, with the intent to intimidate any person or group of persons, in a manner having a direct tendency to cause acts violence by the person or persons at whom such conduct is directed.

Current Practice:

Currently, under §18.2-423, it is a Class 6 felony to burn a cross on the property of another, a highway or other public place with the intent to intimidate any person or group of persons. Burning of a cross is prima facie evidence of intent to intimidate a person or group of persons.

Pre/Post-Sentence Investigation (PSI) data from CY1999 and CY2000 revealed two cases under §18.2-423. Of those, one received no incarceration and the other received a state-responsible (prison) sentence of five years. Convictions under §18.2-423 are not covered by the sentencing guidelines as the primary (or most serious) offense but may augment the sentence recommendation as additional offenses.

Impact of Proposed Legislation:

The proposed legislation may have an impact on the bed space needs of the Commonwealth. This proposal would expand behavior considered an offense the under §18.2-423 from cross burning to the burning of any object with intent to intimidate; therefore, more cases may result. However, the burning of a cross would no longer be considered prima facie evidence of intent to intimidate; consequently, without proof of intent, there may be fewer cases. Nevertheless, the databases available to the Commission are insufficient to provide information on the number of incidences that may be affected by the proposed legislation. No adjustment to the 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.

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