



## Impact Analysis on Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 321

(Patron – Stolle)

Date Submitted: 12/04/01

LD #: 02-4416548

Topic: Solicitation to commit murder.

#### Proposed Change:

The proposed legislation amends §18.2-29 relating to criminal solicitation. Under the proposal, the maximum penalty for soliciting someone to commit a murder would increase to 40 years.

#### Current Practice:

Currently, the penalty for solicitation to commit a felony is differentiated by the age of the person solicited rather than by the nature of the solicited crime. An adult who solicits another adult to commit a felony is guilty of a Class 6 felony, regardless of the maximum penalty of the felony crime that is solicited. An adult who solicits a minor to commit any felony crime is guilty of a Class 5 felony. According to CY1999 and CY2000 Pre/Post-Sentence Investigation (PSI) data, there were 47 offenders sentenced for criminal solicitation as the primary, or most serious, offense. Nearly all the cases (85%) involved the criminal solicitation of an adult and not a juvenile. Of those convicted of solicitation of a person who is at least 18 years of age, almost half received a state-responsible term, with a median sentence of 1.8 years (see *Background Sentencing Information* below). Of those convicted of solicitation of a person who is less than 18 years of age, more than half received a state-responsible sentence with median sentence of one year. According to PSI data, none of these convictions involved physical injury to or death of a victim.

Convictions under §18.2-29 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.

#### Background Sentencing Information

Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Solicitation of a person 18 years of age or older to commit a felony	40	35%	25%	40%	1.8 yrs.
Solicitation of a person under the age 18 to commit a felony	7	0%	43%	57%	1 yrs.

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

**Impact of Proposed Legislation:**

The proposed legislation may have an impact on bed space, but available data suggests that solicitation cases involving victim injury or death are rare. While the impact is expected to be very small, it cannot be calculated. Furthermore, while the proposed change does involve increasing felony penalties, the impact on actual sentences cannot be quantified, since 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 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**