



## **Impact Analysis on Proposed Legislation**

*Virginia Criminal Sentencing Commission*

### **Senate Bill No. 1071** *(Patrons – Rerras and Stolle)*

**Date Submitted:** 12/23/02

**LD #:** 03-0790253

**Topic:** Sale of drugs on or near certain properties

#### **Proposed Change:**

This proposal amends § 18.2-255.2 to clarify that the sale, distribution, or possession with intent to sell, give, or distribute a controlled substance, imitation controlled substance, or marijuana, on school properties is unlawful at any place or time. Currently, this statute does not include the language “at any place or time.”

#### **Current Practice:**

Based on fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, 17 offenders held pre- or post-trial in jail were convicted under the non-felony provisions of § 18.2-255.2 for selling a controlled substance or marijuana on school property for accommodation only. Of these, 88% received a local-responsible sentence, with a median sentence of one-month.

According to FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 213 offenders were convicted under the felony provisions of § 18.2-255.2. None of these were for a second, or subsequent, offense which carries a one-year mandatory minimum sentence. Of the felony cases of distribution of controlled substances, imitation substances or marijuana on school property, nearly 24% were sentenced to probation, 17.8% received a jail sentence, and more than 58% were sentenced to a state-responsible sentence with a median sentence of 2.3 years.

First-time felony violations under § 18.2-255.2 are covered by the sentencing guidelines as the primary (or most serious) offense. The other two offenses under § 18.2-255.2 are not covered by the guidelines as the primary offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction.

#### **Impact of Proposed Legislation:**

If the proposed change results in additional prosecutions under § 18.2-255.2, the proposal may have an impact on state or local-responsible bed space. However, data available to the Commission are insufficient to determine how many additional convictions, if any, would result from this change. Because violation of § 18.2-255.2 constitutes a separate and distinct felony, offenders may be convicted for another drug offense, such as selling a Schedule I or II drug under § 18.2-248(C), in addition to this crime. The impact of the proposal on sentencing practices is unclear, since a judge may suspend part or all of the sentence for the first violation of § 18.2-255.2 or set the sentence to run concurrently with sentences for the other charges.

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 \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**