



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1093

Amendment in the Nature of a Substitute

(Patron – Moran)

Date Submitted: 01/29/04

LD #: 04-0040100

Topic: Abuse and neglect of incapacitated adults

Proposed Change:

The proposed legislation amends paragraph B of § 18.2-369, relating to the abuse and neglect of incapacitated adults, by increasing the penalty for several offenses. Under the proposal, the penalty for violation of this statute that results in serious bodily injury or disease to the victim, the penalty increases from a Class 6 felony to a Class 4 felony.

Data Analysis:

According to the fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database, one offender was convicted under § 18.2-369 (as the primary offense) for abuse or neglect of an incapacitated adult resulting in serious bodily injury or disease; this offender was sentenced to serve two years in prison.

Impact of Proposed Legislation:

The proposed legislation increases the penalties for the crime defined in § 18.2-369(B), pertaining to the abuse and neglect of incapacitated adults that results in serious bodily injury. For this reason, the proposal may have an impact on the state-responsible (prison) and local-responsible (jail) bed space needs of the Commonwealth. However, the one case found in the data suggests that the impact, if any, is likely to be negligible.

The anticipated impact on community corrections programs is unknown because sufficient data are not available to calculate the impact on such programs. However, the proposal could increase the need for probation services from state programs.

Convictions under § 18.2-369 are not currently covered by the sentencing guidelines as the primary (most serious) offense but augment the guidelines recommendation when a covered offense is the most serious at conviction. 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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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.