



## Impact Analysis on Proposed Legislation

---

### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 1148**

*(Patron – McDonnell)*

**Date Submitted:** 1/7/04

**LD #:** 04-1239156

**Topic:** Violent crimes and sentencing guidelines

#### **Proposed Change:**

The proposal amends § 17.1-805(C) relating to the designation of certain felony offenses as violent crimes. The proposal adds the following offenses to the list of crimes defined as violent under this statute: 1) solicitation to commit murder under §18.2-29; 2) committing an act of terrorism under §18.2-46.5; 3) possession of weapons or imitation weapons with the intent to terrorize or intimidate under §18.2-46.6; and 4) malicious biological destruction of crops/animals valued at \$2,500 or more under §18.2-46.7.

Section 17.1-805(C) of the *Code* specifies those offenses which are to be scored as violent crimes under the truth-in-sentencing guidelines. Offenders with prior convictions for violent felonies receive guidelines recommendations substantially longer than those without a violent prior record, and the size of the increased penalty recommendation is linked to the seriousness of the prior crime, as measured by statutory maximum penalty. There have been new statutes added or modified that created violent offenses that are not currently included in the list of crimes defined as violent. The current list of violent crimes under § 17.1-805(C) does not include solicitation to commit murder nor the terrorism offenses that became effective in July 2002.

#### **Data Analysis:**

As of July 2002, solicitation to commit murder under §18.2-29 has a penalty range of five to forty years rather than the one to five year range for solicitation to commit other types of felonies. Data are not yet available to determine the number of convictions under the new penalty structure. However, even the most recent Pre/Post-Sentence Investigation (PSI) data for fiscal year (FY) 2000 and FY2001 show that there were no offenders convicted under §18.2-29 for solicitation to commit a felony during the two-year period. Furthermore, data are not yet available on the new terrorism laws that took effect in July 2002.

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

Convictions under §§ 18.2-29, 18.2-46.5, 18.2-46.6, and 18.2-46.7 are not covered by the sentencing guidelines as the primary (or most serious offense) but may augment the sentence recommendation as prior convictions. By amending § 17.1-805(C) to include these offenses, offenders

---

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.

who have prior convictions for any of these offenses will receive increased sentence recommendations on the sentencing guidelines. The increase in the guidelines recommendation will range from 300% to 500% depending on the statutory maximum penalty of the prior offense.

The effect of the proposed legislation on state-responsible (prison) bed space cannot be quantified; however, as the proposal affects only those offenders with a prior conviction for one of the added offenses, the impact is expected to be small during the six-year window specified by § 30-19.1:4 for fiscal impact statements.

**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.**

vcsc01\_1239