



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1244

(Patron – Griffith)

Date Submitted: 10/1/03

LD #: 04-1108134

Topic: Assault by infectious biological substance or radiological agent

Proposed Change:

Amends § 18.2-52. The proposal makes it illegal to use infectious biological substances or radiological agents to cause bodily injury. To maliciously cause such injury is punishable by confinement for a period of five to 30 years; if such injury was caused unlawfully, but not maliciously, then the crime is punishable as a Class 6 felony. The proposal also applies the definitions of “infectious biological substance” and “radiological agent” found in § 18.2-52.1 to § 18.2-52.

Current Practice:

Currently, under § 18.2-52.1 to possess an infectious biological substance or radiological agent with the intent to injure is a Class 5 felony, and to use such a material with intent to injure is a Class 4 felony. The crimes defined by § 18.2-52.1 were revised by the 2002 General Assembly.

The Assault sentencing guidelines cover convictions under § 18.2-52, as well as attempts and conspiracies to commit any of those crimes.

Impact of Proposed Legislation:

The proposed legislation may have an impact on the bed space needs of the Commonwealth. This proposal expands the existing statute to include additional means of committing an offense in violation of § 18.2-52. However, as the existing § 18.2-52.1 includes the use of infectious biological substances or radiological agents to injure as a Class 4 felony, there may not be an impact within the forecast window because malicious acts prosecuted under § 18.2-52.1 can already be sentenced up to 10 years. Nonetheless, the databases available to the Commission are insufficient to provide information on the number of specific incidences that may be affected by the proposed legislation.

The proposal expands the means by which a crime could be committed in violation of § 18.2-52, but not the nature of the crime, therefore new crimes under the proposal would be covered by the sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

The Department of Juvenile Justice (DJJ) reports that the proposed change to § 18.2-52 may result in a Juvenile Correctional Center (JCC) bed space impact. Currently, a ward committed to DJJ for an

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.

assault under § 18.2-52.1, would have a minimum Length of Stay (LOS) range of 6 to 12 months. If a ward were to be committed for the same act, under the malicious injury portion of the proposed § 18.2-52, the minimum LOS range would become 18 to 24 months. DJJ, however, does not believe that the bed space needs of its JCC's will be affected by the proposal as this crime is unlikely to be committed by juveniles.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 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.

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