



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 184**

#### *Amendment in the Nature of a Substitute (SI)*

#### *(Patron Prior to Substitute – Oder)*

**Date Submitted:** 2/26/04

**LD #:** 04-1024820

**Topic:** Malicious bodily injury by biological or radiological means

#### **Proposed Change:**

The proposal amends § 18.2-52.1 to include as an offense maliciously causing bodily injury with an infectious biological substance or radiological agent. Any person who commits such an act is guilty of a felony punishable by imprisonment for a period of not less than 5 years or more than 30 years. The definition of an “infectious biological substance” shall not include HIV as defined in § 18.2-67.4:1, syphilis or hepatitis B. Currently, under § 18.2-52.1, it is a Class 5 felony to possess an infectious biological substance or radiological agent with the intent to injure another, while it is a Class 4 felony to use such a material with intent to injure. The 2002 General Assembly added radiological agents to this *Code* section.

#### **Data Analysis:**

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, there were no convictions under § 18.2-52.1 for possessing an infectious biological substance or radiological agent, damaging a related facility, or using such material with intent to injure another.

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

By amending an existing statute to create a new felony crime, the proposed legislation may have an impact on the bed space needs of the Commonwealth. The databases available to the Commission are insufficient to provide information on the number of additional convictions that may result under the proposal; however, data did not reveal any convictions under the existing § 18.2-52.1 for possessing an infectious biological substance or radiological agent with intent to injure another. Therefore, the impact of the proposal is expected to be small.

Convictions under § 18.2-52.1 are not covered by the sentencing guidelines as the primary (most serious) offense but could augment the guidelines recommendation if 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 is \$0 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.