



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 414**

#### *Amendment in the Nature of a Substitute (Patron Prior to Substitute – Lewis)*

**Date Submitted:** 1/30/04

**LD #:** 04-0958378

**Topic:** Possession or transportation of explosives by convicted felons

#### **Proposed Change:**

This proposal amends § 18.2-308.2 by adding any explosive material to the list of weapons that convicted felons are prohibited from possessing or transporting. Under the proposal, explosive material is defined in this statute as any chemical compound mixture, or device, the purpose of which is to function by explosion; the definition identifies several specific explosives, but explicitly excludes fireworks as defined in § 27-95. Violation of this statute is punishable as a Class 6 felony, but it does not currently include explosives.

Currently, under § 18.2-85, it is a Class 5 felony for any person to manufacture, transport, distribute, possess, or use a firebomb or explosive device, or to possess materials with which firebombs or explosive materials or devices can be made with the intent to make such materials or devices.

#### **Data Analysis:**

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, nine offenders who were convicted of a crime in which explosives were identified as the weapon also had a prior felony conviction. Of these, 67% were sentenced to a state-responsible (prison) term with a median sentence of 10 years, while the remaining 33% were sentenced to a local-responsible (jail) term.

According to FY2000 and FY2001 PSI data, 16 offenders were convicted under § 18.2-85. Of these, two had a prior felony record and both were sentenced to three months in jail.

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

Because the proposed legislation expands the applicability of an existing felony, the proposal may increase the number of state-responsible (prison) and local-responsible (jail) beds needed. The number of acts not currently covered by the existing §§ 18.2-85 and 18.2-308.2 that would be affected by the proposal cannot be enumerated.

The offense is covered by the sentencing guidelines, but the proposal will not require any changes to the guidelines.

**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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