



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 632 *As Engrossed with Amendments* *(Patron Prior to Amendment – O'Bannon)*

Date Submitted: 2/4/04

LD #: 04-3420440

Topic: Unlawful procurement of prescription drugs for others

Proposed Change:

The proposal adds a section numbered § 54.1-3310.1 relating to unlawful procurement of prescription drugs for others. The proposal states that any person who knowingly assists another in procuring for compensation prescription drugs from a pharmacy or other source is guilty of a Class 6 felony with a maximum penalty of five years imprisonment.

Current Practice:

Currently, procuring, or attempting to procure, controlled substances by fraud, deceit, misrepresentation, embezzlement, or subterfuge, or by the forgery or alteration of a prescription is a crime punishable as a Class 6 felony under § 18.2-258.1. Also, it is unlawful for any person to make or utter any false or forged prescription as specified in the same *Code* section.

Data Analysis:

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 672 offenders were convicted under the felony provisions of § 18.2-258.1 for prescription fraud. Felony crimes under the statute are Class 6 felonies. The majority of these offenders were sentenced to no incarceration. Of the few that were sentenced to state-responsible (prison) time, those convicted of obtaining drugs by fraud were given a median sentence of 21 months, and those convicted of uttering a false or forged prescription were given a median sentence of 24 months. See the *Background Sentencing Information* below for more details.

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.

Background Sentencing Information

Felony Crimes	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State Responsible Sentence
Obtain drugs by forgery, fraud (§ 18.2-258.1(A))	620	85%	11%	5%	21 months
Assume title of doctor, pharmacist, etc. to obtain drugs (§ 18.2-258.1(D))	10	70%	30%	0%	--
Utter false or forged prescription (§ 18.2-258.1(E))	40	80%	13%	7%	24 months

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database

Impact of Proposed Legislation:

The proposed legislation adds a section to Title 54.1 relating to Professions and Occupations. Because crimes involving prescription fraud are already in existence under Title 18.2, and their penalties are the same as the proposed crime, an impact on state-responsible (prison) beds is not expected.

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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