



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 645**

*(Patron – Bell)*

**Date Submitted:** 12/1/03

**LD #:** 04-3501328

**Topic:** Statutory burglary

#### **Proposed Change:**

This proposal amends § 18.2-90 to revise the definition of statutory burglary with intent to commit murder, rape, robbery or arson. The proposed legislation removes language specifying the locations of “any office, shop, manufactured home, storehouse, warehouse, banking house, church as defined in § 18.2-127, or other house” and replaces it with the language “any building permanently affixed to realty.” The effect of the proposed legislation is to generalize the prohibition on unlawful entry to any building permanently affixed to realty.

#### **Current Practice:**

Convictions under § 18.2-90 are covered by Virginia’s sentencing guidelines as the primary (or most serious) offense in a sentencing event. According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, there were a total of 53 felony convictions under § 18.2-90 as the primary offense in a sentencing event (see *Background Sentencing Information* below). Of the total, 24 of the offenders were convicted of statutory burglary of a dwelling with intent to commit murder, rape, robbery or arson without a deadly weapon (a Class 3 felony); the majority (75%) received a state-responsible (prison) term, with a median prison sentence of 7.7 years. Another 20 offenders were convicted of statutory burglary with intent to commit murder, rape, robbery or arson while armed with a deadly weapon (a Class 2 felony). When a deadly weapon was used, nearly all (95%) the offenders received a prison term with a median sentence of 18 years. An additional 7 offenders were convicted of statutory burglary of a nondwelling with intent to commit murder, rape, robbery or arson without a deadly weapon (a Class 3 felony). Of those, 6 (86%) were sentenced to prison with a median sentence of 2.5 years. Lastly, 2 offenders were convicted of statutory burglary of a nondwelling with a deadly weapon (a Class 2 felony); 1 was sentenced to prison, for a term of 6 years.

**Background Sentencing Information**

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Prison Sentence
Statutory burglary of dwelling to murder, rape, rob, arson	24	12.5%	12.5%	75%	7.7 yrs.
Statutory burglary of dwelling to murder, rape, rob, arson with deadly weapon	20	5%	0%	95%	18.0 yrs.
Statutory burglary of other structure to murder, rape, rob, arson	7	0%	14%	86%	2.5 yrs.
Statutory burglary of other structure to murder, rape, rob, arson with deadly weapon	2	0%	50%	50%	6.0 yrs.

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

**Impact of Proposed Legislation:**

The proposed legislation generalizes the language of § 18.2-90 to any building permanently affixed to realty. However, the extent of the impact cannot be quantified because the effect of this change on the number of convictions that could be obtained under this statute is unknown. The effect of the proposal on the need for state-responsible (prison) bed space, therefore, cannot be determined. The anticipated impact on community corrections programs is also unknown. No adjustment to the sentencing 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.