



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 656 *As Engrossed with Amendments* *(Patron Prior to Amendments – Bell)*

Date Submitted: 2/4/04

LD #: 04-0920232

Topic: Assault and battery against a family or household member

Proposed Change:

This proposal amends § 18.2-57.2 by increasing to 20 years the time period during which a third or subsequent domestic assault and battery conviction is punished as a felony. Currently, if there are convictions for three or more assaults committed within a ten-year period, but each committed on different dates, the conviction for the third or subsequent assault is raised from a Class 1 misdemeanor to a Class 6 felony.

Data Analysis:

Based on FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 357 offenders were convicted under the felony provisions § 18.2-57.2 (B) for a third or subsequent assault against a family or household member. Of these, 97 (27%) were sentenced to probation without an active term of incarceration, 134 (38%) to a local-responsible (jail) term, and 126 (35%) were sentenced to a state-responsible (prison) term, with a median sentence of 18 months.

According to the Local Inmate Data System (LIDS), which contains information on offenders held pre- or post-trial in jail, there were 4,608 misdemeanor convictions during fiscal year (FY) 2001 and FY2002 for violations of § 18.2-57.2(A). Nearly all (93%) of these offenders received a local-responsible (jail) term, with a median sentence of one month. Less than 1% received a state-responsible (prison) term due to an accompanying felony charge.

Impact of Proposed Legislation:

The proposed legislation may affect state-responsible (prison) bed space needs by increasing the 10-year time span to 20 years for a third or subsequent domestic assault and battery conviction to be raised to a felony under § 18.2-57.2(B). Existing databases do not contain sufficient information to determine the number of additional offenders who would be eligible for the felony provisions if the 10-year time span were expanded; statewide data of misdemeanants convicted under § 18.2-57.2 has only been available from the Local Inmate Data System (LIDS) since January 1, 2000. Therefore, the impact on state-responsible (prison) bed space needs cannot be determined.

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.

Under the proposal, there may be a shift of offenders from local to state community corrections programs due to an increase in the number of persons sentenced under the felony provisions of § 18.2-57.2. However, the number of offenders who may be affected is unknown.

Felony convictions § 18.2-57.2 are covered by the sentencing guidelines as the primary offense. Misdemeanor convictions are not covered by the sentencing guidelines as the primary (or most serious) offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction. 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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