



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 871

(Patron – Byron)

Date Submitted: 12/8/03

LD #: 04-7453256

Topic: Infected sexual battery

Proposed Change:

The proposed legislation amends § 18.2-67.4:1 to revise the definition of infected sexual battery. Under the proposal, any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallismus or anal intercourse with another person without disclosing the existence of his infection to the other person is guilty of a Class 6 felony. The proposed legislation essentially removes the phrase “with the intent to transmit the infection” and replaces it with “without disclosing the existence of his infection to the other person.”

This section of the *Code* was added by the 2000 General Assembly and became effective July 1, 2000.

Data Analysis:

Based on fiscal year (FY) 2001 Pre/Post-Sentence Investigation (PSI) data, there were no convictions for violations of § 18.2-67.4:1 either as the primary offense or an additional offense in a sentencing event.

Infected sexual battery is not covered by Virginia’s sentencing guidelines as the primary (most serious) offense in a sentencing event, but such a conviction may appear as an additional offense if a covered offense is the most serious at sentencing.

Impact of Proposed Legislation:

The proposed legislation revises the definition of infected sexual battery. The proposal may have an impact on the bed space needs of the Commonwealth. However, the databases available to the Commission are insufficient to provide information on the number of convictions that may accrue under the revised definition. Therefore, the effect of the proposal cannot be quantified.

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.