



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 871

Amendment in the Nature of a Substitute

(Patron – Byron)

Date Submitted: 1/29/04

LD #: 04-0963256

Topic: Infected sexual activity

Proposed Change:

The proposed legislation adds § 18.2-67.4:2 to make any person who, knowing he is infected with HIV, syphilis, or hepatitis B, has sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with another person without disclosing the existence of his infection to the other person is guilty of a Class 6 felony.

Currently, under § 18.2-67.4:1, it is a Class 6 felony to have sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse with another person with intent to infect that person with HIV, syphilis, or hepatitis B; § 18.2-67.4:1 was added by the 2000 General Assembly and became effective July 1, 2000.

Data Analysis:

No criminal justice database contains information on the number of persons who have sexual intercourse, cunnilingus, fellatio, anallingus or anal intercourse without disclosing the existence of a known infection such as HIV, syphilis or hepatitis B. However, 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.

Impact of Proposed Legislation:

The proposed legislation creates a new felony crime and 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 proposed statute. Therefore, the effect of the proposal cannot be quantified.

As a new crime, convictions under the proposed § 18.2-67.4:2 would not be covered by Virginia's sentencing guidelines as the primary (most serious) offense in a sentencing event but may increase the recommendation if a covered offense is the most serious at sentencing. 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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