



## Impact Analysis on Proposed Legislation

*Virginia Criminal Sentencing Commission*

### House Bill No. 871

*Amendment in the Nature of a Substitute (S1)  
(Patron Prior to Substitute – Byron)*

**Date Submitted:** 3/1/04

**LD #:** 04-1187256

**Topic:** Infected sexual activity

#### **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, has sexual intercourse, cunnilingus, fellatio, anallingsus or anal intercourse with another person without disclosing the existence of his infection to the other person is guilty of a Class 1 misdemeanor.

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 local-responsible (jail) bed space needs of the Commonwealth, but not on the state-responsible (prison) bed space needs. 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.

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