



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1807 (Patrons – Marshall, R.G. and Black)

Date Submitted: 12/29/2004

LD #: 05-3711396

Topic: Providing birth control to minor

Proposed Change:

The proposal adds a section to the *Code of Virginia* numbered § 18.2-63.2 to make it a Class 6 felony for any person to provide a minor with a contraceptive or contraceptive device when that person knows or has reason to believe that the minor is engaging in sexual relations with a person three years or more older than the minor.

Current Practice:

Currently, providing another with a contraceptive or contraceptive device is not illegal in Virginia, regardless of the individual's age. It is, however, a Class 6 felony in Virginia to have intercourse with a consenting victim age 13 or 14 when the accused is a minor is three years or older than the victim (§ 18.2-63). According to fiscal year (FY) 2002 and FY2003 Pre-Sentence Investigation Data (PSI), there were 46 offenders (minors at least three years older than the victim) who were convicted under § 18.2-63. The largest portion of these offenders (44%) were sentenced to local-responsible (jail) time, but over one-third (39%) were sentenced to state-responsible (prison) time. The offenders who were sentenced to prison received a median sentence of two years incarceration.

Background Sentencing Information

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Statutory rape—consenting victim age 13,14 & accused minor 3+ years older (§18.2-63)	46	17.4	43.5	39.1	2 years

Data Source: FY2002 & FY2003 Pre-Sentence Investigation (PSI) Database.

In addition, carnal knowledge of a consenting 13 or 14 year old is raised to a Class 4 felony when to accused is an adult. Under § 18.2-371(ii), consensual intercourse with a minor age 15 or older is a Class 1 misdemeanor when the accused is not the parent. According to the FY2003 and FY2004 Local Inmate Data System (LIDS), 33 offenders held pre- or post-trial in jail were convicted under this statute during the two-year period. All 33 offenders received local-responsible (jail) time, with a median sentence just under three months.

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.

Impact of Proposed Legislation:

By creating a new felony crime, the proposed legislation may increase the correctional bed space needs of the Commonwealth; however, the databases available to the Commission are insufficient to provide specific information on the number of convictions that may accrue under the proposed legislation. Therefore, the effect of the proposal cannot be quantified.

If the proposed legislation is adopted, Virginia's sentencing guidelines would not cover the new felony offense. 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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