



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2203
Amendment in the Nature of a Substitute
(Patrons Prior to Substitute – Marrs and Bell)

Date Submitted: 2/3/2005

LD #: 05-8021388

Topic: Criminally negligent bodily injury

Proposed Change:

The proposed legislation adds § 18.2-51.5 to define serious bodily injury of another caused by negligence so gross, wanton and culpable as to show a reckless disregard for human life, health or safety as a Class 6 felony.

Analysis:

Currently, under § 18.2-51.4, it is a Class 6 felony for a person to drive while intoxicated in a manner so gross, wanton and culpable as to show a reckless disregard for human life and unintentionally cause serious injury of another resulting in permanent and significant impairment. Under § 18.2-371.1, any act or omission in the care of a child by a parent or guardian that is so gross, wanton and culpable as to show a reckless disregard for human life is a Class 6 felony; however, any act or omission that results in serious injury to the child is a Class 4 felony.

Current *Code* defines unlawful and malicious wounding offenses. Unlawfully wounding another with intent to maim, disfigure, disable or kill (§ 18.2-51) is a Class 6 felony (1 to 5 years); the penalty is increased to a Class 3 felony (5 to 20 years) if such act is done maliciously (§ 18.2-51) and to a Class 2 felony (20 years to life) if the malicious wounding results in permanent and significant physical impairment of the victim (§ 18.2-51.2). Existing *Code* defines involuntary manslaughter (§ 18.2-36) as a Class 5 felony.

Impact of Proposed Legislation:

Because the proposal adds a new crime to the *Code* that may result in additional felony convictions, the proposed legislation may increase the correctional bed space needs of the Commonwealth; however, data are insufficient to determine the number of incidents that may be affected by the provision. Although the impact of the proposal cannot be quantified, the element of serious bodily injury suggests that the actual impact is likely to be small as most instances may be covered by existing crimes.

If the proposal is adopted, convictions under § 18.2-51.5 would not be covered by the sentencing guidelines as the primary (most serious) offense but could augment the guidelines recommendation if a covered offense is the most serious at conviction. 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 cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

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