



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2244 (Patron – Bell)

Date Submitted: 1/3/2005

LD #: 05-7226232

Topic: Involuntary wounding

Proposed Change:

The proposed legislation adds § 18.2-51.5 to define involuntary wounding as the serious bodily injury to another resulting from negligence so gross, wanton, reckless or culpable as to show a callous disregard of human health or safety. The proposal specifies that any violation is punishable as a Class 5 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. Therefore, the impact of the proposal cannot be quantified.

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.

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.

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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