



## Impact Analysis on Proposed Legislation

*Virginia Criminal Sentencing Commission*

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### House Bill No. 2247

*(Patron – Bell)*

**Date Submitted:** 1/10/05

**LD #:** 05-7253232

**Topic:** Aggravated sexual battery

#### **Proposed Change:**

The proposed legislation amends § 18.2-67.3 to define the sexual abuse of another achieved through the victim's physical helplessness as aggravated sexual battery.

Under the current § 18.2-67.3, if the victim is physically helpless, in addition to sexual abuse, at least one of the following crime elements also need to be present before an offender is guilty of aggravated sexual battery: (a) the victim is 13 to less than 15 years of age, (b) the sexual assault causes serious bodily or mental injury to the victim, or (c) the offender uses or threatens to use a dangerous weapon. If the victim is physically helpless, the proposal only requires that the victim is sexually abused to convict the offender of aggravated sexual battery.

#### **Analysis:**

According to the fiscal year (FY) 2002 and FY2003 Pre/Post-Sentence Investigation (PSI) database, there were 326 convictions for aggravated sexual battery (§ 18.2-67.3) where the victim was less than 13 years of age. Nearly four of five (79%) were sentenced to a state-responsible (prison) term (median sentence 4.4 years), while 11% were ordered to serve a local-responsible (jail) term.

In addition, there were 94 convictions for aggravated sexual battery of a victim 13 years of age or older. Most (60%) were sentenced to a prison term (median sentence 4 years), while 22% received a local-responsible (jail) sentence. The remaining 18% did not receive an active term of incarceration.

According to the fiscal year (FY) 2003 and FY2004 Local Inmate Data System (LIDS), 336 offenders held pre- or post-trial were convicted of misdemeanor sexual battery. Of these, the majority (97%) were sentenced to local-responsible (jail) terms with a median sentence of five months. The data are not sufficiently detailed to determine if any victims in these cases were physically helpless at the time of the offense.

#### **Impact of Proposed Legislation:**

Because the proposed legislation expands the definition of aggravated sexual battery, the proposal may have an impact on the state-responsible (prison) bed space needs of the Commonwealth.

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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.

However, the databases available to the Commission are insufficient to provide information on the number of new felony convictions that may result under the proposed legislation.

No adjustment to Virginia's sentencing guidelines would be necessary under the proposal.

The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase Juvenile Correctional Center (JCC) bed space needs.

**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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