



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2288 **Amendment in the Nature of a Substitute** ***(Patron Prior to Substitute – Lingamfelter)***

Date Submitted: 2/3/05

LD #: 05-8019380

Topic: Concealing or compounding offenses

Proposed Change:

The proposal amends § 18.2-462 to increase the penalty for willfully concealing, altering, or destroying physical evidence related to any felony offense under any Article of Chapter 4 of Title 18.2 (Crimes against Person) with the intent to delay, impede, obstruct, prevent, or hinder the criminal investigation, apprehension, prosecution or punishment of any person. For person crimes other than murder, the proposal increases the penalty, other than the victim, for concealing, altering, dismembering, or destroying physical evidence from a Class 2 misdemeanor to a Class 6 felony. For acts of murder, the proposal increases the penalty for this offense from a Class 2 misdemeanor to a Class 4 felony.

Data Analysis:

Based on fiscal year (FY) 2003 and FY2004 Local Inmate Data System (LIDS) data, five offenders held pre- or post-trial in jail during this time period were convicted under § 18.2-462 for concealing or compounding a felony crime. Most (80%) received a local-responsible (jail) term, with a median sentence of 17 days. The data are not sufficiently detailed to determine the types of felony crimes and evidence that these offenders were concealing or compounding.

LIDS data do not capture offenders charged with this offense who are never held in a local jail facility.

Impact of Proposed Legislation:

By increasing the penalty for an existing crime from a misdemeanor to a felony in certain circumstances, the proposal may increase the correctional bed space needs of the Commonwealth; however, the impact is likely to be small. Data reveal only five cases for concealing or compounding a felony in a recent two-year period.

Convictions under § 18.2-462 are not covered by the sentencing guidelines as the primary (or most serious) offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

The Department of Juvenile Justice (DJJ) reports that by elevating the crime to a felony, the proposal may have an impact on the Juvenile Correctional Centers (JCC) in two ways. First, as a felony, the proposed change would make a juvenile eligible for commitment, while under current law, at least four Class 1 misdemeanors would be necessary to commit a juvenile without an accompanying felony. Second, the minimum commitment assigned under the Department's Length of Stay (LOS) guidelines would be increased from the current 3-6 months to 6-12 months for the Class 4 felony and 12-18 months for the Class 3 felony.

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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