



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1170

(Patron – Stolle)

Date Submitted: 1/10/05

LD #: 05-8913120

Topic: Age limitations in certain sexual assaults

Proposed Change:

The proposed legislation amends §§ 18.2-67.3, 18.2-370 and 18.2-370.2 to expand the applicability of aggravated sexual battery and indecent liberties statutes by adjusting age limitations in sexual acts involving minors.

While the current § 18.2-67.3 automatically defines sexual abuse of minor under the age of 13 as aggravated sexual battery, the proposal expands this provision to include any child under the age of 15. Currently, sexual abuse of a minor who is at least 13 but less than 15 is considered aggravated sexual battery only if the abuse is achieved by force, threat, or intimidation or through the victim's physical helplessness.

Similarly, the proposal expands § 18.2-370 relating to indecent liberties with children to cover any child under the age of 15. This statute currently applies to children under the age of 14.

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.

Based on the same two years of PSI data, 99 offenders were convicted of taking indecent liberties of a child. Of these, 17% were not sentenced to an active term of incarceration, 33% received a local-responsible (jail) term, and 50% received a state-responsible (prison) term, with a median sentence of 1.8 years.

According to fiscal year (FY) 2003 and FY2004 Local Inmate Data System (LIDS) data, 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 mentally incapacitated or physically helpless at the time of the offense.

Impact of Proposed Legislation:

Because the proposed legislation expands the definition of aggravated sexual battery and taking indecent liberties with a child, the proposal may have an impact on the state-responsible (prison) bed space needs of the Commonwealth. However, the databases available to the Commission are insufficient to provide information on the number of new felony convictions for either crime that may result under the proposed legislation.

No adjustment to Virginia's 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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