



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 978

(Patron – Abbitt)

LD #: 06-1336200

Date: 1/10/2006

Topic: Sale of imitation marijuana near school, etc.

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
Cannot be determined
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Correctional Centers:**  
Cannot be determined
- **Juvenile Detention Facilities:**  
Cannot be determined

#### Summary of Proposed Legislation:

The proposal amends § 18.2-255.2 making it a Class 6 felony to sell, etc., any substance that is represented to be marijuana near schools, libraries, and other types of public property. Currently, selling, etc., a controlled substance, an imitation controlled substance, or marijuana on or near school property is a Class 6 felony under § 18.2-255.2. Accommodation sales on or near school property are classified as Class 1 misdemeanors. Second or subsequent sale, etc., of a controlled substance, imitation controlled substance, or marijuana on or near school property constitutes a Class 6 felony with a one-year mandatory term of incarceration.

#### Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, there were 27 cases involving first-time sale, etc., of a controlled substance, imitation controlled substance, or marijuana on or near school property. More than one-third (35%) of these cases involved the sale of marijuana. The majority of these cases (56%) were sentenced to no active incarceration; 44% were sentenced to a local-responsible (jail) term with a median sentence of six months incarceration. During the same time period, there were no convictions involving second or subsequent sale, etc., of a controlled substance, imitation controlled substance, or marijuana on or near school property.

According to fiscal year (FY) 2003 and 2004 Local Inmate Data System (LIDS) data, there were 10 convictions for misdemeanor violations of § 18.2-255.2 involving accommodation to a sale, etc., of a controlled substance, imitation controlled substance, or marijuana on or near school property. The median sentence for these offenders was two months incarceration.

#### Impact of Proposed Legislation:

**State adult correctional facilities.** The proposed legislation may increase the state-responsible (prison) bed space needs of the Commonwealth, but the magnitude of that impact cannot be quantified. The databases available to the Commission are insufficiently detailed to identify the number of sales involving imitation marijuana near the properties specified by *Code*.

**Local adult correctional facilities.** The proposal may increase the need for additional local-responsible (jail) beds, but the magnitude of that impact cannot be determined.

**Adult community corrections programs.** The proposal may have an impact on community corrections resources, but this impact cannot be determined.

**Virginia's sentencing guidelines.** Felony convictions, without a mandatory term of incarceration, under § 18.2-255.2 are covered by the sentencing guidelines. However, it is more likely that this offense would be scored as an additional offense on the guidelines and not the primary offense. No adjustment to the guidelines is necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

**Juvenile detention facilities.** The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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**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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