



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2178
Engrossed
(Patron Prior to Engrossment – Morgan)

LD#: 07-5025116

Date: 1/11/2007

Topic: Schedule III controlled substances

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 54.1-3450 to add embutramide to the list of Schedule III controlled substances. Possession of a Schedule III controlled substance (§ 18.2-250(A,b)) and distribution of a Schedule III controlled substance other than anabolic steroids as an accommodation (§ 18.2-248(E3)) are Class 1 misdemeanors punishable by up to 12 months in jail. The sale, distribution or possession with intent to sell or distribute a Schedule III controlled substance other than anabolic steroids (§ 18.2-248(E1)) is a Class 5 felony punishable by imprisonment from 1 to 10 years.

Analysis:

The Drug Enforcement Administration (DEA) has placed embutramide into Schedule III of the Controlled Substances Act (CSA) effective September 28, 2006. According to the DEA, pharmacologic data suggest that the abuse potential of embutramide may be similar to that of other central nervous system depressants such as barbiturates, which are already listed on Schedules III and IV of the CSA. Embutramide may be used by veterinarians in combination with other drugs for the humane euthanasia of dogs (http://www.avma.org/onlnews/javma/nov06/061101b_pf.asp).

According to calendar year (CY) 2004 and CY2005 Local Inmate Data System (LIDS) data, there were 343 convictions for possession of a Schedule III drug. Most of these offenders (81%) were given a local-responsible (jail) term with a median sentence length of approximately two months. There were no convictions for the distribution of a Schedule III drug as an accommodation. According to CY2004 and CY2005 Pre/Post-Sentence Investigation (PSI) data, there were no felony convictions for the sale or distribution of a Schedule III drug as the primary (most serious) offense at sentencing.

Impact of Proposed Legislation:

State adult correctional facilities. Because it expands the applicability of existing felony provisions, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth.

The number of cases that may result from adding embutramide to the list of Schedule III drugs cannot be estimated. While the magnitude of the impact cannot be quantified, it is expected to be small.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs. Although the magnitude of the impact cannot be determined with existing data, it is expected to be small.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. The potential impact on community corrections resources cannot be quantified but is expected to be small.

Virginia's sentencing guidelines. Misdemeanor convictions and felony convictions under § 18.2-248(E1) are not covered by the sentencing guidelines as the primary (most serious) offense in a case; however, they may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be 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 reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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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