



## Legislative Impact Analysis for the 2005 General Assembly

## Code of Virginia § 30-19.1:4

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- The Virginia Criminal Sentencing Commission must prepare a fiscal impact statement for any bill which would result in a net increase in the population of offenders housed in state adult correctional facilities.
- Current law became effective July 1, 2000.
- Effective July 1, 2002, the impact statement must:
  - Include analysis of the impact on local and regional jails as well as state and local community corrections programs;
  - Detail any necessary adjustments to the sentencing guidelines.



## Code of Virginia § 30-19.1:4

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- The amount of the estimated increase in operating costs identified in the Commission's impact statement must be printed on the face of the bill.
- For each law enacted that results in a net increase in the prison population, a one-year appropriation must be made.
  - Appropriation is equal to the highest single-year increase in operating cost for the six years following the effective date of the law.
- Appropriations per § 30-19.1:4 are deposited into the Corrections Special Reserve Fund.



# Legislative Impact Analysis

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- The requirement for an impact statement includes, but is not limited to, those proposals that:
  - Add new crimes for which imprisonment is authorized;
  - Increase the periods of imprisonment authorized for existing crimes;
  - Raise the classification of a crime from a misdemeanor to a felony;
  - Impose minimum or mandatory terms of imprisonment; or
  - Modify the law governing release of prisoners.



# Legislative Impact Analysis

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- The necessary appropriation is calculated by:
  - Estimating the net increase in the prison population likely to result from the proposal for the six years following enactment;
  - Multiplying the highest single-year figure by the cost of holding a prison inmate for a year (operating costs, not to include capital costs);
  - For 2004, the annual operating cost per prison inmate was \$22,854.



# 2005 General Assembly – 243 Impact Analyses Completed

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| Type of Legislative Change           | % of Analyses |
|--------------------------------------|---------------|
| Expansion or Clarification of Crime  | 31.3%         |
| New Crime                            | 37.9%         |
| Misdemeanor to Felony                | 16.5%         |
| Mandatory Minimums                   | 4.9%          |
| Increase Felony Penalty              | 7.4%          |
| Increase Misdemeanor Penalty         | 0.0%          |
| Presumptive Denial of Bail           | 0.8%          |
| Normative Modification of Guidelines | 2.9%          |
| Death Penalty                        | 2.9%          |
| Decrease Penalty                     | 0.0%          |

Percentages do not add to 100% as proposed legislation can involve multiple types of changes. Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are adopted.



# Type of Offenses in Proposed Legislation

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- Drugs (48 analyses)
  - Methamphetamine (10 analyses)
  - Methamphetamine precursors (9 analyses)
  - Schedule III/IV (8 analyses)
  - DUI & Drugs (6 analyses)
  - Cocaine (5 analyses)
  - Counterfeit drugs (3 analyses)
  - Other (7 analyses)



# Type of Offenses in Proposed Legislation

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- Computer crimes (25 analyses)
  - Phishing (9 analyses)
  - Modernizing computer statutes (16 analyses)
- Sex offenses and offenders (23 analyses)
  - Carnal knowledge/indecent liberties (9 analyses)
  - Sex Offender Registry (8 analyses)
  - Marital sexual assault (4 analyses)
  - Other (2)





# Type of Offenses in Proposed Legislation

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- Firearms (23 analyses)
  - Sentencing guidelines (6 analyses)
  - Convicted felon in possession of firearm (6 analyses)
  - Unlawful possession by juvenile (5 analyses)
  - Gun shows (4 analyses)
  - Other (2 analyses)
- Gangs (19 analyses)
  - Gang criminal activity (17 analyses)
  - Gang murder (2 analyses)



# Proposal to Raise Misdemeanor to a Felony

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- House Bill 2688 (Stalking)
  - The proposal amends § 18.2-60.3 by increasing the penalty for a second or subsequent conviction for stalking within two years from a Class 1 misdemeanor to a Class 6 felony.





# Proposal to Add Mandatory Minimum Sentences

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- Senate Bill 865 (Cocaine)
  - The proposal amends § 18.2-248(C) to increase the penalty for a third or subsequent violation and to add new mandatory, minimum penalties for other violations related to manufacturing, selling, giving, distributing or possessing with intent to manufacture, sell, give or distribute cocaine.
  - The proposal adds a 5-year mandatory, minimum sentence for the first violation and a 15-year mandatory, minimum term for any second violation.



# Proposal to Add Mandatory Minimum Sentences

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- Senate Bill 865 - continued
  - Currently, the first and second violations of this provision are punishable by imprisonment of 5 to 40 years and 5 years to life, respectively.
    - No mandatory penalties are specified under current law.
  - For a third violation, currently subject to a three-year mandatory, minimum sentence, the proposal increases the penalty to a Class 1 felony (punishable by life imprisonment or death).





# Proposal to Create New Crime

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- House Bill 1974 (Methamphetamine precursors)
  - The proposed legislation adds § 18.2-248.8 to make it a Class 6 felony to unlawfully possess certain substances used for manufacturing methamphetamine.
  - In addition, under the proposal, any person who sells, transfers, distributes or furnishes any listed substance to another person with knowledge that the substance will be used for the manufacture of methamphetamine shall be guilty of a Class 6 felony.



