

# Legislative Impact Analysis for the 2006 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 2005, the annual operating cost per prison inmate was \$23,966.



# 2006 General Assembly – 336 Impact Analyses Completed

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Type of Legislative Change	% of Analyses
New Crime	41.7%
Expansion or Clarification of Crime	39.0%
Misdemeanor to Felony	16.1%
Increase Felony Penalty	11.4%
Mandatory Minimums	10.4%
Death Penalty	1.8%
Increase Misdemeanor Penalty	1.5%
Presumptive Denial of Bail	0.9%
Normative Modification of Guidelines	0.6%



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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- Sex Offenders and Offenses (86 analyses)
  - Expanded number of SOR offenses
  - Increased penalties for 2nd SOR violations
  - Increased restrictions on SOR offenders
  - Mandatory time for certain sex crimes
  - Incest expanded to include step-family
  - Restructured indecent liberties
  - Assist payment for access to child porn



# Type of Offenses in Proposed Legislation

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- Drug crimes (30 analyses)
  - Distribution of Schedule I/II drugs
  - Distribution or manufacture of methamphetamine
  - Include day care/kindergartens in drug-free zones
  - Increased regulation of pseudoephedrine
  - Use of controlled substances during pregnancy





# Type of Offenses in Proposed Legislation

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- Fraud/Larceny (39 analyses)
  - False identity to establish residency
  - Identity theft
  - Insurance fraud
  - Investment fraud
  - Lottery fraud
  - Check 21 Evidence Act
  - Bad check for child/spouse support



# Proposal to Raise Misdemeanor to a Felony

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- House Bill 1399 (Peeping)
  - The proposal amends § 18.2-67.5:1 by adding § 18.2-130 to the group of sexual assault misdemeanors that become a felony upon a third conviction.
  - The proposal also requires persons whose penalties were enhanced under § 18.2-67.5:1 to register with the Sex Offender Registry.



# Proposal to Add Mandatory Minimum Sentences

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- Senate Bill 865 (Cocaine)
  - The proposal amends § 18.2-248(C) 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.
    - Five years for a first conviction.
    - 10 years for a second conviction.
    - 15 years for a third or subsequent conviction.



# Proposal to Create New Crime

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- Senate Bill 522 (Destruction of Biological Evidence)
  - The proposed legislation adds § 18.2-471.1 to make it a Class 6 felony for a clerk of court or other public official to willfully violate an order pursuant to § 19.2-270.4:1 (storage, preservation and retention of human biological evidence).



# Proposal to Expand an Existing Crime

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- House Bill 1016 (Assault and Battery of Judge)
  - The proposed legislation amends § 18.2-57 to expand an existing Class 6 felony (assault and battery of a law-enforcement officer) with a six-month mandatory minimum to apply when the victim is a judge.
    - In the proposal, “judge” is defined as any justice or judge including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court or any substitute judge of a district court.



# The Iterative Process of Legislation

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- Senate Bill 473 (Expanding List of Predicate Crimes Defining Criminal Street Gang)
  - Introduced: \$168,882
  - Senate Courts line amendments, analyzed for Senate Finance Public Safety Subcommittee: \$7,073
  - Senate Finance Substitute (not introduced): \$7,073
  - Senate Finance Substitute (incorporating SB136): \$201,803
  - Proposed floor amendment analyzed at request of Senate Finance staff: \$38,279
  - Engrossed bill: \$7,073
  - House Courts Substitute: \$7,073
  - Enrolled bill: \$7,073

