



## Impact Analysis on Proposed Legislation

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### *Virginia Criminal Sentencing Commission*

#### **House Bill No. 228**

*(Patron – Cosgrove)*

**Date Submitted:** 12/29/03

**LD #:** 04-7270276

**Topic:** Racing punishable as involuntary manslaughter

#### **Proposed Change:**

The proposal amends § 18.2-36.1 of the *Code of Virginia* relating to unlawful racing of a motor vehicle. The proposal broadens the definition of involuntary manslaughter (§ 18.2-36.1) to include deaths resulting from a race as defined in § 46.2-865. The existing § 18.2-36.1 is limited to unintentional deaths resulting from driving under the influence. Currently, under § 46.2-865, racing between two or more vehicles on a highway, driveway or other property open to the public is punished as reckless driving, a Class 1 misdemeanor.

Involuntary manslaughter is a Class 5 felony punishable by a term of imprisonment for not less than one or more than ten years. Aggravated vehicular involuntary manslaughter is a felony offense punishable by a term of imprisonment for not less than one or more than twenty years.

#### **Data Analysis:**

Based on fiscal year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, which contains information on offenders held pre- or post-trial in jail, 21 offenders were convicted of racing under § 46.2-865 (see *Background Sentencing Information* below). All of these offenders were sentenced to jail terms with a median sentence of 10 days. The number of these cases resulting in death or injury cannot be identified.

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 47 offenders were convicted of vehicular involuntary manslaughter under § 18.2-36.1(A) as the primary offense in a sentencing event. Of these, 15% were sentenced to probation, 15% received local-responsible (jail) terms and 70% received state-responsible (prison) terms with a median sentence of two years. Furthermore, 22 offenders were convicted of aggravated vehicular involuntary manslaughter under § 18.2-36.1(B). All of these offenders were sentenced to prison terms with a median sentence of 7.5 years.

**Background Sentencing Information**

Misdemeanor Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Local-Responsible Sentence
Racing (§ 46.2-865)	21	0%	100%	0%	10 days

Note: Includes only convictions of those held in the local jail pretrial or sentenced to serve time post-trial.  
Data Source: FY2001 and FY2002 Local Inmate Data System (LIDS) database

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Vehicular involuntary manslaughter (§ 18.2-36.1(A))	47	15%	15%	70%	2.0 yrs.
Aggravated vehicular involuntary manslaughter (§ 18.2-36.1(B))	22	0%	0%	100%	7.5 yrs.

Data Source: FY2000 and FY2001 Pre/Post-Sentence Investigation (PSI) database

**Impact of Proposed Legislation:**

The proposed legislation may affect the need for state-responsible (prison) bed space. The proposal includes racing as a basis for a involuntary manslaughter conviction. However, the databases available to the Commission are insufficient to provide information on the number of additional convictions that may accrue under the proposed legislation. The effect of the proposal, therefore, cannot be quantified.

Vehicular involuntary manslaughter and aggravated vehicular involuntary manslaughter are covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event. Racing is not covered as the primary offense but may augment the guidelines recommendation as an additional offense. No adjustment to the sentencing guidelines would be necessary under the proposal.

**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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The Commission provides analyses of the impact on prison and jail bed space and community corrections placement needs in accordance with § 30-19.1:4. Impact analyses do not comment on the merits of the bill under review.