



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 250

Amendment in the Nature of a Substitute (Patron Prior to Substitute – McQuigg)

Date Submitted: 2/18/04

LD #: 04-0036412

Topic: Reckless driving

Proposed Change:

The proposal amends § 46.2-868 to increase the penalty for reckless driving from a Class 1 misdemeanor to a Class 6 felony if the offender was driving while his license was suspended or revoked for a moving violation and the offender's reckless driving caused the death of another.

Currently, every person convicted of reckless driving under the provisions of Title 46.2, Chapter 8, Article 7 of the *Code of Virginia* is guilty of a Class 1 misdemeanor. Generally, this covers misdemeanor violations of §§ 46.2-852 through 46.2-866, plus overtaking or passing emergency vehicles as specified in § 46.2-829.

Data Analysis:

Based on Fiscal Year (FY) 2001 and FY2002 Local Inmate Data System (LIDS) data, 2,134 offenders held pre- or post-trial in jail were convicted of Class 1 misdemeanor reckless driving offenses. Of those, 44 offenders (2%) were sentenced to probation without active incarceration, while 1,976 (93%) received local-responsible (jail) terms, with a median sentence of seven days. Another 114 offenders (5%), convicted of additional charges, received state-responsible (prison) terms, with a median sentence of 3.1 years.

According to the Department of Motor Vehicles, in 2002 there were 832 fatal crashes where 913 persons were killed.*

Impact of Proposed Legislation:

The impact of the proposed legislation on state (prison) or local-responsible (jail) bed space cannot be determined. Available databases do not provide information on the number of deaths resulting from reckless driving offenses committed while the offender's license has been suspended.

* Department of Motor Vehicles, *2002 Virginia Traffic Crash Facts*, Richmond, VA.

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.

Convictions for crimes defined by §§ 46.2-829, and 46.2-852 through 46.2-866 and punished under § 46.2-868 are not covered by the sentencing guidelines as the primary (most serious) offense but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

The Department of Juvenile Justice (DJJ) reports that in FY2002 there were 19 juveniles committed for crimes punished under § 46.2-868 (although this may not be the most serious charge at committal); the comparable number in FY2003 was 25. Furthermore, DJJ is unable to determine if any of these committals involved death or serious bodily injury. If the proposal is enacted, the minimum confinement assigned under the Department's Length of Stay (LOS) guidelines would change from 3-6 months to 6-12 months. Additionally, as a Class 6 felony, the proposed change would make a juvenile eligible for commitment; existing *Code* specifies that a juvenile is eligible for commitment if he is adjudicated for a felony, has a prior felony adjudication or has accumulated a total of four Class 1 misdemeanor adjudications.

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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