



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 674

(Patron – Bell)

Date Submitted: 1/13/04

LD #: 04-0017232

Topic: Maiming, etc., of another resulting from driving while intoxicated

Proposed Change:

The proposal amends § 18.2-51.4 to add language that explicitly includes acts in which the offender, as a result of driving while intoxicated (DWI) in a manner showing reckless disregard for human life, unintentionally “maims, disfigures or disables another person.”

Currently, offenders caught driving while intoxicated in a manner showing reckless disregard for human life who inflict serious bodily injury to another person, specifically injury resulting in “permanent and significant physical impairment,” can be charged and convicted under § 18.2-51.4. The section does not, however, specifically include injury to another person that is described as maiming, disfiguring, or disabling. This offense is punishable as a Class 6 felony.

Data Analysis:

According to fiscal year (FY) 2000 and FY2001 Pre/Post-Sentence Investigation (PSI) data, 10 offenders were convicted under the felony provisions of § 18.2-51.4(A) for driving while intoxicated and causing injury to another resulting in permanent and significant physical impairment. The majority of the offenders (80%) were sentenced to prison with a median state-responsible sentence of 33 months. During the same time period, there were 14 convictions involving offenders driving under the influence who committed a hit and run wherein the victim sustained physical injury. While felony driving under the influence has a one to five year statutory range, hit and run with personal injury carries a maximum penalty of ten years. Half of the offenders (50%) with a DWI conviction and a hit and run involving physical injury were sentenced to jail in a local facility. The median sentence for local responsible offenders was one month. Those sentenced to prison comprised 36% of the offenders, and their median state responsible sentence was 36 months. See the *Background Sentencing Information* below.

Background Sentencing Information

Felony Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median Local Responsible Sentence	Median State Responsible Sentence
Causing permanent & significant physical impairment as result of DWI (§ 18.2-51.4(A))	10	10%	10%	80%	6 months	33 months
Hit & Run with physical injury (§ 46.2-894) involving DWI	14	14%	50%	36%	1 month	36 months

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

Impact of Proposed Legislation:

The proposed legislation under § 18.2-51.4 clarifies the definition of victim injury in cases in which drunk drivers physically injure others. Specifically, drunk drivers whose victims sustain injuries involving maiming, disfigurement or disability will be explicitly covered under the amended § 18.2-51.4. However, the number of additional convictions that may accrue as a result of the proposed legislation cannot be determined.

Convictions under § 18.2-51.4 are not currently covered by the sentencing guidelines as the primary (or most serious) offense. However, convictions listed as additional offenses may augment the guidelines recommendation. 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.