



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 993

Amendment in the Nature of a Substitute (Patrons – Hugo and Cosgrove)

Date Submitted: 2/17/04

LD #: 04-2617260

Topic: Injuring persons while engaging in a race

Proposed Change:

The proposal amends § 46.2-867 of the *Code of Virginia* and adds § 46.2-865.1 relating to unlawful racing of a motor vehicle. The proposed § 46.2-865.1 makes it a Class 6 felony for anyone engaging in a race, with reckless disregard for human life, to cause serious bodily injury to another person who is not involved in the act of racing. It also provides for the suspension of the offender's driver's license for a period of one to three years upon conviction. Under the proposal, § 46.2-867 is expanded to provide for the seizure and forfeiture of a motor vehicle if the owner is convicted of racing resulting in injury in violation of the proposed § 46.2-865.1. The current seizure provision covers only the existing racing statute (§ 46.2-865).

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 serious bodily injury or death cannot be identified.

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

Impact of Proposed Legislation:

The proposed legislation may affect the need for state-responsible (prison) bed space. The proposal creates a new felony for injuring persons while engaging in a race. However, the databases available to the Commission are insufficient to provide information on the number of additional felony convictions

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.

that may accrue under the proposed legislation. The effect of the proposal, therefore, cannot be quantified.

Racing is not covered by the sentencing guidelines as the primary (most serious) offense in a sentencing event 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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