



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 1042

(Patron – Kilgore)

LD #: 06-4336372

Date: 01/09/06

Topic: Death resulting from illegal auto racing

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
Cannot be determined
- **Juvenile Detention Facilities:**
Cannot be determined

Summary of Proposed Legislation:

The proposal amends § 46.2-865.1 to establish an enhanced penalty for offenders involved in illegal auto races, in violation of § 46.2-865, that results in the death of a person not involved with the race. The penalty for causing a death in this manner is set at one to twenty years with a mandatory minimum term of one year.

Currently, offenders who commit this act can be prosecuted under the existing involuntary manslaughter statute; however, the maximum penalty is ten years. If the offender was racing under the influence, in violation of § 18.2-266, prosecution could proceed under the existing aggravated involuntary manslaughter statute. In 2004, the *Code of Virginia* was amended to include a Class 6 felony for offenders involved in racing that results in the serious injury to a person not involved in the race.

Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, three offenders were convicted of involuntary manslaughter with an additional offense of reckless driving. None of the offenders were convicted of the Class 1 misdemeanor of illegal racing, § 18.2-865, as an additional offenses or as an offense that was resolved in lower court. One offender received no additional active time and the other two received sentences of 1 year or 12 months. No cases of aggravated manslaughter with an additional or prior racing conviction were identified.

In the (FY) 2003 and FY2004 Local Inmate Data System (LIDS) databases, 42 offenders were held pre- or post-trial for violation of § 46.2-865 racing. All received a local-responsible (jail) sentence with a median sentence of 15 days.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation may have an impact on the bed space needs of the Commonwealth. The databases available to the Commission are insufficiently detailed to

identify when racing was a contributing factor to manslaughter and the offender was not charged with an additional racing offense.

Local adult correctional facilities. The proposed legislation may have an impact on local-responsible (jail) bed space needs in Virginia. However, the databases do not distinguish when racing was a contributing factor in the death.

Adult community corrections programs. The proposal impact on adult community corrections programs cannot be determined.

Virginia's sentencing guidelines. The sentencing guidelines do not cover violations of 46.2-865.1 as a primary (most serious) offense; however, these convictions may augment the sentencing guidelines recommendation if the primary offense is one that is covered by the guidelines.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the impact of the proposal to juvenile correctional center (JCC) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the impact of the proposal on juvenile detention facilities cannot be determined.

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.

race01_4336