



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 42

(Patron – Albo)

LD #: 06-3488204

Date: 12/2/2005

Topic: Conduct punishable as involuntary manslaughter

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$314,265 (13 beds)
- **Local Adult Correctional Facilities:**
-\$36,229 (-4 beds)
- **Adult Community Corrections Programs:**
None (\$0)

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal amends § 18.2-36.1 which governs involuntary manslaughter while driving under the influence (DWI).

Under subsection A, a person who unintentionally causes the death of another while DWI is punishable as involuntary manslaughter; this is currently a Class 5 felony with no mandatory minimum term. The proposal would require a mandatory minimum term of one year be added.

If the circumstances are so gross, wanton and culpable to show reckless disregard for human life, the crime becomes, under subsection B, aggravated involuntary manslaughter and is punishable currently as a felony subject to a prison term not to exceed 20 years and has a one-year mandatory minimum term. The proposal would increase the mandatory minimum term to five years.

Analysis:

According to fiscal year (FY) 2002 and 2003 Pre/Post Sentence Investigation (PSI) data, 59 offenders were convicted of involuntary manslaughter as a result of driving under the influence under § 18.2-36.1(A). The majority of these offenders (73%) received state-responsible (prison) terms with a median sentence of just over two years. Of the remainder, 24% received local-responsible (jail) terms and 3% were sentenced to probation.

The FY2002 and FY2003 PSI data also yielded 31 convictions for aggravated vehicular involuntary manslaughter associated with a DUI under § 18.2-36.1(B). All of these offenders were sentenced to state-responsible (prison) terms (median sentence of 7.5 years).

Impact of Proposed Legislation:

State adult correctional facilities. By adding a mandatory minimum penalty for offenses under § 18.2-36.1(A) and increasing the mandatory minimum penalty for offenses under § 18.2-36.1(B), the impact is estimated to be 13 additional state-responsible (prison) beds by 2012.

Estimated Six-Year Impact in State-Responsible (Prison) Beds

FY07	FY08	FY09	FY10	FY11	FY12
3	7	8	9	12	13

Local adult correctional facilities. The proposal will result in a reduced need for local-responsible (jail) bed space as these offenders will now be sentenced to prison terms. Based on the same methodology, there will be a reduction of four jail beds statewide, resulting in a savings to the state of \$36,229 (using FY2004 jail inmate costs) for reimbursement to localities. There would be an additional statewide savings to the localities of \$33,397 for the same beds.

Estimated Six-Year Impact in Local-Responsible (Jail) Beds

FY07	FY08	FY09	FY10	FY11	FY12
-2	-3	-3	-4	-4	-4

Adult community corrections programs. It is unlikely that the proposal will have an impact on community corrections resources. For offenders who are required to serve longer prison terms as a result of the proposal, the need for community corrections services will be delayed until the additional prison time is served.

Virginia's sentencing guidelines. Convictions under the current § 18.2-36.1 are covered as a primary offense under the Murder/Homicide guidelines. No adjustment to the guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$314,265 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.

Assumptions underlying the analysis include:**General Assumptions**

1. State and local responsibility is based on §53.1-20 as analyzed for the Secretary's Committee on Inmate Forecasting in 2005.
2. New cases representing state-responsible sentences were based on the admissions forecast as approved by the Secretary's Committee on Inmate Forecasting in July 2005.
3. Cost per prison bed was assumed to be \$23,966 per year as provided by the Department of Planning and Budget to the Commission pursuant to § 30-19.1:4. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimated amount of necessary appropriation.*
4. Cost per jail bed was based on The Compensation Board's FY2004 Jail Cost Report. The state cost was calculated from the revenue portion and the resulting sum was \$26.03 per day or \$9,506 per year. The local cost was calculated by using the daily expenditure cost of \$54.37 per inmate (not including capital accounts or debt service) as the base, and subtracting revenues accrued from the state and federal governments, which resulted in \$23.99 per day or \$8,763 per year. *Where the estimated bed space impact included a portion (or fraction) of a bed, a prorated cost was included in the estimate.*

Assumptions relating to sentence lengths

1. The impact of the proposed legislation, which would be effective on July 1, 2006, is phased in to account for case processing time.

2. The state-responsible bed-space impact was derived by estimating the difference between expected dates of release under current law and under the proposed legislation. Release dates were estimated based on the average rates at which inmates in Department of Corrections' facilities were earning sentence credits as of December 31, 2004. For felony manslaughter, this rate was 11.31%.
3. To gauge the impact, persons were treated as having been sentenced to the mandatory term. Depending on whether the person was convicted under subsection A or B, sentences were increased to the respective mandatory minimum terms of one and five years unless they already exceeded the appropriate mandatory minimum required by the proposal.

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