



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2978

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

LD#: 07-0587820

Date: 2/7/2007

Topic: Maiming another while operating watercraft while intoxicated

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

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

Summary of Proposed Legislation:

The proposal adds § 18.2-51.5 making it a Class 6 felony if any person operates a watercraft or motorboat while intoxicated (in violation of § 29.1-738 or a similar local ordinance) in a manner so gross, wanton and culpable as to show reckless disregard for human life and causes the serious bodily injury of another resulting in permanent and significant physical impairment. Under the proposal, the court shall order the offender not to operate a watercraft or motorboat that is underway upon the waters of the Commonwealth for a period of two years from the date of conviction.

Currently under § 18.2-51.4(A), any person who, as a result of recklessly operating a motor vehicle, engine or train while intoxicated in violation of § 18.2-266 or any similar local ordinance, unintentionally causes the serious bodily injury of another resulting in permanent physical impairment, is guilty of a Class 6 felony.

Analysis:

According to the calendar year (CY) 2004 and 2005 Local Inmate Data System (LIDS), four offenders held pre- or post-trial in jail were convicted of operating a watercraft while intoxicated under § 29.1-738. Each offender was given a local responsible (jail) term, for which the median sentence was nine days.

Calendar year (CY) 2004 and 2005 Pre-/Post-Sentence Investigation (PSI) data did not contain any felony cases with an accompanying misdemeanor conviction for boating while under the influence. However, PSI data did show 16 convictions for maiming, etc., of another as the result of driving a motor vehicle while intoxicated (§ 18.2-51.4(A)). Most (69%) of these offenders received a state-responsible (prison) term, where the median sentence was 2.5 years.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth; however, data reveal few convictions for boating while under the influence during a recent two-year period. Therefore, while the magnitude of the impact cannot be quantified, it is expected to be small.

Local adult correctional facilities. Because a felony conviction can result in a sentence to be served in a local or regional jail, the proposal may have an impact on future local-responsible (jail) bed space needs. While the magnitude of the impact cannot be determined, it is expected to be small.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, it may increase the need for adult community corrections resources. The potential impact on community corrections programs cannot be quantified but it expected to be small.

Virginia's sentencing guidelines. No adjustment to the sentencing guidelines is necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal may increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal may increase the bed space needs of juvenile detention facilities.

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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