

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: SB 300

House of Origin ☐ Introduced ☒ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron: **Miller, J.C.**

3. Committee: **Senate Finance**

4. Title: **Driving under the influence**

5. Summary:

The proposed legislation would enact several changes to the driving under the influence (DUI) statutes concerning situations when the motor vehicle passenger or victim was a minor (17 years old or younger), as follows:

- Transporting a minor while DUI—The offense of DUI carries a variety of penalties, ranging from a Class 1 misdemeanor to Class 6 felony with escalating periods of mandatory minimum periods of confinement, depending on the number of convictions and blood alcohol content. The proposed legislation would add another penalty if the defendant were 21 years old or older at the time of the offense and were operating the vehicle with a minor as a passenger. The first offense would be a Class 1 misdemeanor, with a mandatory minimum sentence of 10 days. A second or subsequent offense would be a Class 6 felony, with a mandatory minimum sentence of 90 days.
- Involuntary manslaughter—If a person causes the death of another person as the result of driving while under the influence of controlled substances (unlawful drugs), he is guilty of involuntary manslaughter. The offense is a Class 5 felony, punishable with a sentence of up to 12 months in jail or 2-5 years in prison. The proposed legislation would make the offense aggravated involuntary if the person killed were a minor and a passenger in the vehicle operated by the offender. The offense would be a felony punishable by a sentence of 1-20 years in prison, with a mandatory minimum sentence of one year.
- Maiming—Currently, if a person is DUI in a manner that shows a reckless disregard for human life and, as a result, unintentionally causes serious bodily injury resulting in permanent and significant physical impairment, the offense is a Class 6 felony. A Class 6 felony is punishable with a sentence of up to 12 months in jail or 1-5 years in prison. The proposed legislation would make the offense a Class 5 felony if (i) the driver were 21 years old or older and (ii) the injured person were a minor who was a passenger in the vehicle operated by the offender. A Class 5 felony is punishable by a sentence of up to 12 months in jail or 2-5 years in prison.

6. Fiscal Impact Estimates: Preliminary. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$52,920	General
2012	\$2,920	General
2013	\$2,920	General
2014	\$2,920	General
2015	\$2,920	General
2016	\$2,920	General

7. Budget Amendment Necessary: Yes. Item 380.

8. Fiscal Implications:

Because it would add a new misdemeanor offense with a mandatory minimum sentence and would increase existing felony offenses, the proposed legislation could result in more people being housed in local, regional, and state correctional facilities.

The Virginia Criminal Sentencing Commission reports that the proposed legislation would increase the need for jails beds by an average of one bed per year. The state Compensation Board presently reimburses localities \$8.00 per day for each local offender (misdemeanant) housed in jails. Therefore, the annual per diem cost projected to result from the proposed legislation is \$2,920.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 781 of the 2009 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Compensation Board
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/9/2010 dpb

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