



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### Senate Bill No. 605 (Patron – Edwards)

LD#: 16103490

Date: 1/12/2016

Topic: Reckless driving resulting in death or injury to certain persons

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **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 \*\*

\*\* Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal adds § 46.2-867.1, relating to reckless driving resulting in death or significant injury to certain workers, to the *Code of Virginia*. Under the proposal, it would be a Class 5 felony for any person to drive recklessly and, as a direct and proximate cause of such driving, cause the death or permanent and significant physical impairment of an emergency medical services provider, firefighter, government employee or contractor, or law-enforcement officer who (i) was not in a vehicle, (ii) was on a public roadway or work zone, and (iii) was engaged in his or her official duties at the time.

The proposal shares some similarities with § 46.2-868(B), which increases the penalty for reckless driving to a Class 6 felony in cases in which the offender was driving while his license was suspended for a moving violation and his actions were the sole and proximate cause of the death of another. The proposed § 46.2-867.1 is not restricted to offenders driving on a suspended license; however, it would only apply in cases where the victim is an emergency medical services provider, etc. In addition, the proposed felony offense would also apply to individuals whose reckless driving results in permanent and significant physical impairment.

#### Analysis:

According to the Virginia Highway Safety Office, there were 1,441 traffic fatalities in the Commonwealth during 2013 and 2014.<sup>1</sup> It is not known how many of these cases involved reckless driving resulting in the death or significant impairment of an emergency medical services provider, firefighter, government employee or contractor, or law-enforcement officer.

<sup>1</sup> *Virginia Traffic Crash Facts (2013 and 2014)*, Virginia Highway Safety Office

General District (Traffic) Court Case Management System (CMS) data for fiscal year (FY) 2014 and FY2015 indicate that 12,346 offenders were convicted of a Class 1 misdemeanor for driving recklessly in a manner that endangered life, limb or property, in violation of § 46.2-852. The majority (89.2%) of these offenders did not receive an active term of incarceration to serve after sentencing. For the 10.8% of offenders given a local-responsible (jail) term, the median sentence was approximately 11 days.

Available data do not contain sufficient detail to determine the number of cases that would be affected by the proposal. However, affected offenders who cause the death of an emergency medical services provider, firefighter, government employee or contractor, or law-enforcement officer engaged in his or her official duties may be sentenced similarly to those who are currently convicted of a Class 5 felony under § 18.2-36 for involuntary manslaughter. According to FY2014 and FY2015 Sentencing Guidelines data, 55 offenders were convicted of involuntary manslaughter in violation of § 18.2-36. This offense was the primary, or most serious, offense in 50 cases. The majority (70%) of these offenders received a state-responsible (prison) term, for which the median sentence was three years. While 8% did not receive an active term of incarceration to serve after sentencing, the remaining 22% were sentenced to local-responsible (jail) terms, with a median sentence of five months.

According to FY2014 and FY2015 Circuit Court CMS data, seven offenders were convicted of a felony under § 46.2-868(B) for driving recklessly with a suspended license and causing the death of another. This offense was the primary, or most serious, offense in five cases. Of these, one offender (20%) did not receive an active term of incarceration to serve after sentencing, while two offenders (40%) were sentenced to local-responsible (jail) terms with a median sentence of two months. The remaining two offenders were both sentenced to state-responsible (prison) terms of 2.5 years. Existing data are insufficient to estimate potential sentences relating to the injury of emergency medical services providers, etc., under the proposed § 46.2-867.1.

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### **Impact of Proposed Legislation:**

**State adult correctional facilities.** Because it creates a new Class 5 felony offense, which is punishable by imprisonment up to ten years, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, existing data do not provide sufficient detail to estimate the number of new felony convictions that may result from enactment of the proposal. Therefore, the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** The proposal may also increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Because the proposal could result in felony convictions and subsequent supervision requirements for additional offenders, the proposal may increase the need for adult community corrections resources. However, the potential impact on state and local community corrections cannot be determined.

**Virginia's sentencing guidelines.** As a new felony offense, convictions under the proposed § 46.2-867.1 would not be covered by the sentencing guidelines as the primary (most serious) offense in a case; however, convictions for this crime may augment the guidelines recommendation if a covered offense is the most serious at sentencing. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice, the impact of the proposal on bed space needs for juvenile correctional centers cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on detention center bed space needs 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; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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