



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1336 (Patron – Stuart)

LD#: 21100657

Date: 12/21/2020

Topic: Restricted permits with ignition interlock systems

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
\$50,000 *
- **Local Adult Correctional Facilities:**
Cannot be determined, likely to be small
- **Adult Community Corrections Programs:**
Cannot be determined, likely to be small

- **Juvenile Direct Care:**
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 1289 of the Acts of Assembly of 2020 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Summary of Proposed Legislation:

The proposal adds § 18.2-271.5, to the *Code of Virginia* relating to restricted permits to operate motor vehicles with ignition interlock systems. After revocation or suspension of an operator's license for a criminal offense, the court may issue the defendant a restricted license to operate a motor vehicle. The only restriction under the proposal prohibits the defendant from operating a motor vehicle that is not equipped with a functioning and certified ignition interlock system. The restricted license would be for a period of not less than 12 consecutive months.

Currently, driving without an ignition interlock system that is required by § 46.2-391.01 is punishable as a Class 1 misdemeanor under § 18.2-272(C). A third or subsequent violation of any offense established by § 18.2-272 within 10 years is a Class 6 felony. However, § 18.2-272 of the *Code* establishes the penalties for more than just ignition interlock systems violations. The section establishes base penalties for operating a motor vehicle while a driver's license is revoked or restricted following a conviction for driving while intoxicated (DWI). It is a Class 1 misdemeanor to drive or operate a motor vehicle, engine or train in violation of a revoked or restricted license under § 18.2-272(A). Under § 18.2-272(B), it is a Class 1 misdemeanor for an individual whose driver's license was revoked or restricted as the result of a DWI conviction to operate a motor vehicle with a blood alcohol content of .02 percent or more.

Another *Code* section establishes a penalty for ignition interlock systems violations. It is a Class 1 misdemeanor under § 18.2-270.1 to tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system.

Analysis:

Existing data do not contain sufficient detail to determine the number of cases that would be affected by the proposed amendments. However, affected offenders may be sentenced similarly to those currently convicted under § 18.2-272 for operating a motor vehicle while a driver's license is revoked or restricted following a DWI conviction.

Sentencing Guidelines data for FY2019 and FY2020 indicate that 95 offenders were convicted of a felony for a third or subsequent violation of § 18.2-272. This was the primary, or most serious, offense in 68 of the cases. Over half (52.9%) of the offenders in these cases received a state-responsible (prison) term for which the median sentence was 1.0 years. Another 36.8% of the offenders received a local-responsible (jail) term with a median sentence length of six months. The remaining 10.3% did not receive an active term of incarceration to serve after sentencing.

According to fiscal year (FY) 2019 and FY2020 General District (Traffic) Court Case Management System (CMS) data, 58.7% of offenders convicted of a Class 1 misdemeanor under § 18.2-272, driving without an ignition interlock system (as the primary, or most serious, offense), were given a local-responsible (jail) term. The median sentence in these cases was one month. The remaining offenders did not receive an active term of incarceration to serve after sentencing. For offenders whose primary offense was a misdemeanor violation of § 18.2-270.1, tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system, most (71.4%) were given a jail term with a median sentence of 20 days.

Impact of Proposed Legislation:

State adult correctional facilities. The proposal mainly contains two aspects that may affect the state-responsible (prison) bed space needs of the Commonwealth. First, the proposal would limit the number of restrictions placed upon a subset of individuals subject to a restricted license and, therefore, may reduce the number of individuals who would violate the provisions of § 18.2-272. Second, by increasing the mandatory length of time that certain individuals would be subject to ignition interlock requirements (i.e., from no less than 6 months to no less than 12 months), the proposal may increase the period of time that some individuals could be found in violation of § 18.2-272 for failing to comply with ignition interlock requirements. By limiting restrictions, but increasing the length of time the remaining restriction is effective, the proposal may impact the future state-responsible (prison) bed space needs of the Commonwealth. However, existing databases do not contain sufficient detail to identify cases that would be affected by the proposal or to estimate the net impact of the proposed legislation; therefore, the impact of the proposal on prison bed space needs cannot be determined. However, any impact is likely to be small.¹

Local adult correctional facilities. Similarly, the impact of the proposal on local-responsible (jail) bed space needs cannot be determined. However, the impact, if any, is likely to be small.

Adult community corrections resources. The impact on state community corrections resources and local community-based probation services cannot be estimated but is likely to be small.

¹ Pursuant to § 30-19.1:4, fiscal impact statements prepared by the Virginia Criminal Sentencing Commission only include the estimated increase in operating costs associated with additional state-responsible prison beds and do not reflect any other costs or savings that may be associated with the proposed legislation.

Virginia’s sentencing guidelines. Felony convictions under § 18.2-272 are covered by the current sentencing guidelines. No adjustment to the guidelines would be necessary under the proposal.

Juvenile direct care. According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal’s impact on the bed space needs of 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; therefore, Chapter 1289 of the Acts of Assembly of 2020 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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